MONTANA LEGISLATIVE HISTORY

Chapter 505 19 95

Bill H _____ S 83 Original bill & history ✓ C

H. Committee on Appropriations			S. Committee on Finance & Claims		
Hearing Date(s)	Feb 15	✓ C	Hearing Date(s)	Jan 19	✓ C
		C		Jan 28	✓ C
		C			C
		C			C
Date Out		C		Jan 30	✓ C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

Free Conference Committee

Apr 06 ✓

Apr 07 ✓

3/24	SIGNED BY GOVERNOR CHAPTER NUMBER 230 EFFECTIVE DATE: 03/24/95		

SB 83 INTRODUCED BY GROSFIELD, ET AL.

GENERALLY REVISE LAWS CONCERNING DEDICATED REVENUE AND STATUTORY APPROPRIATIONS

BY REQUEST OF LEGISLATIVE FINANCE COMMITTEE

1/10	INTRODUCED		
1/10	FIRST READING		
1/10	REFERRED TO FINANCE & CLAIMS		
1/11	FISCAL NOTE REQUESTED		
1/16	FISCAL NOTE RECEIVED		
1/17	FISCAL NOTE PRINTED		
1/19	HEARING		
1/30	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/02	2ND READING PASSED AS AMENDED	50	0
2/03	3RD READING PASSED	48	2
	TRANSMITTED TO HOUSE		
2/06	FIRST READING		
2/10	REFERRED TO APPROPRIATIONS		
2/15	HEARING		
3/08	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/28	2ND READING CONCURRED AS AMENDED	96	3
3/30	3RD READING CONCURRED	91	7
	RETURNED TO SENATE WITH AMENDMENTS		
4/04	2ND READING AMENDMENTS NOT CONCURRED	48	0
4/05	CONFERENCE COMMITTEE APPOINTED		
4/05	CONFERENCE COMMITTEE DISSOLVED		
4/05	FREE CONFERENCE COMMITTEE APPOINTED		
4/06	HEARING		
4/07	FREE CONFERENCE COMMITTEE REPORT NO. 1		
4/08	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	48	0
4/10	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	49	0
	HOUSE		
4/05	CONFERENCE COMMITTEE APPOINTED		
4/06	CONFERENCE COMMITTEE DISSOLVED		
4/06	FREE CONFERENCE COMMITTEE APPOINTED		
4/10	2ND READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	85	14
4/11	3RD READING FREE CONFERENCE COMMITTEE REPORT NO. 1 ADOPTED	96	4
4/13	SIGNED BY PRESIDENT		
4/13	SIGNED BY SPEAKER		
4/17	TRANSMITTED TO GOVERNOR		
4/21	SIGNED BY GOVERNOR CHAPTER NUMBER 509 EFFECTIVE DATE: 04/21/95—SECTIONS 81 & 84 EFFECTIVE DATE: 07/01/95—SECTIONS 1-80, 82 & 83		

SENATE BILL NO. 83

INTRODUCED BY Garfield Cook Jacobson Lumpkin

BY REQUEST OF THE LEGISLATIVE FINANCE COMMITTEE

Taylor Harding Van Valkenburg Peck Keenan

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS CONCERNING DEDICATED REVENUE AND STATUTORY APPROPRIATIONS; AMENDING SECTIONS 2-7-514, 3-5-901, 3-10-601, 15-24-925, 15-25-111, 15-25-122, 15-35-108, 15-65-121, 15-70-101, 15-70-102, 15-71-104, 17-1-501, 17-1-502, 17-1-503, 17-1-504, 17-1-505, 17-2-111, 17-5-704, 17-6-409, 17-7-502, 19-8-504, 20-4-109, 20-5-324, 20-7-420, 20-7-504, 20-7-605, 20-9-166, 20-9-331, 20-9-333, 20-9-342, 20-9-343, 20-9-346, 20-9-360, 20-9-361, 23-2-507, 23-2-644, 23-2-807, 23-2-823, 23-4-202, 23-7-202, 23-7-402, 27-12-206, 39-71-2501, 39-71-2503, 39-71-2504, 44-12-206, 46-18-235, 52-6-105, 61-2-107, 61-3-502, 61-4-112, 61-8-204, 61-10-126, 61-10-148, 61-10-225, 61-10-226, 75-5-634, 75-5-635, 75-6-109, 75-6-114, 75-6-115, 76-15-530, 77-1-808, 77-1-809, 77-1-810, 80-11-310, 82-4-426, 82-11-149, 87-1-114, 90-1-108, 90-6-201, 90-6-202, 90-6-205, 90-6-207, AND 90-6-212, MCA; REPEALING SECTIONS 15-25-123, 15-65-122, 15-65-131, 17-1-503, 23-1-131, 60-2-224, AND 75-5-507, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-7-514, MCA, is amended to read:

"**2-7-514. Filing of audit report and financial report.** (1) Completed audit reports must be filed with the department. Completed financial reports must be filed with the department as provided in 2-7-503(1). The state superintendent of public instruction shall file with the department a list of school districts subject to audit under 2-7-503(3). The list must be filed with the department within 6 months after the close of the fiscal year.

(2) At the time that the financial report is filed or, in the case of a school district, when the audit report is filed with the department, the local government entity shall pay to the department a filing fee. The department shall charge a filing fee to any local government entity required to have an audit under 2-7-503, which fee must be based upon the costs incurred by the department in the administration of this part. Notwithstanding the provisions of 20-9-343, the filing fees for school districts required by this section

must be paid by the superintendent of public instruction ~~from the state equalization aid account~~. The department shall adopt the fee schedule by rule based upon the local government entities' revenue amounts.

(3) Copies of the completed audit and financial reports must be made available by the department and the local government entity for public inspection during regular office hours.

(4) The department is authorized under this part to charge a surcharge on the filing fee to generate the necessary revenue to repay the general fund loan over a 5-year period. (Subsection (4) terminates June 30, 1997--sec. 31, Ch. 489, L. 1991.)"

Section 2. Section 3-5-901, MCA, is amended to read:

"**3-5-901. State assumption of certain district court expenses.** (1) The state shall, to the extent that revenue is available under 61-3-509, fund the following district court expenses in criminal cases only:

(a) salaries of court reporters;

(b) transcripts of proceedings;

(c) witness fees and necessary expenses;

(d) juror fees;

(e) indigent defense;

(f) ~~expenses of~~ the appellate defender commission and the office of appellate defender; and

(g) psychiatric examinations.

(2) The revenue received under 61-3-509 is statutorily appropriated, as provided in 17-7-502, to the supreme court for funding the expenses listed in ~~subsection (1)~~ subsections (1)(a) through (1)(e) and (1)(g) and the costs of administering this section.

(3) If money appropriated for the expenses listed in subsection (1):

(a) exceeds the amount necessary to fully fund those expenses, the excess amount must be used to fund the appellate defender commission and the office of appellate defender and for district court grants as provided in 7-6-2352; or

(b) is insufficient to fully fund those expenses, ~~the appellate defender commission and the office of appellate defender must be funded first and~~ the county is responsible for payment of the balance.

(4) Money deposited in the state general fund in fiscal year 1992, as provided in 61-3-509, that is in excess of the legislative appropriation is statutorily appropriated, as provided in 17-7-502, to the

supreme court for district court and courts of limited jurisdiction automation purposes during the 1995 biennium. (Subsection (4) terminates July 1, 1995--sec. 7, Ch. 330, L. 1993.)"

Section 3. Section 3-10-601, MCA, is amended to read:

"**3-10-601. Collection and disposition of fines, penalties, forfeitures, and fees.** (1) Each justice of the peace shall collect the fees prescribed by law for justices' courts and shall pay them into the county treasury of the county in which the justice of the peace holds office, on or before the 10th day of each month, to be credited to the general fund of the county.

(2) All fines, penalties, and forfeitures that this code requires to be imposed, collected, or paid in a justice's court must, for each calendar month, be paid by the justice's court on or before the 5th day of the following month to the treasurer of the county in which the justice's court is situated, except that they may be distributed as provided in 44-12-206 if imposed, collected, or paid for a violation of Title 45, chapter 9 or 10.

(3) The county treasurer shall, in the manner provided in 15-1-504, distribute money received under subsection (2) as follows:

(a) 50% to the state treasurer for deposit in the state general fund; and

(b) 50% to the county general fund.

~~(4) The state treasurer shall distribute money received under subsection (3) as follows:~~

~~(a) 44.81% to the state general fund;~~

~~(b) 9.09% to the fish and game account in the state special revenue fund;~~

~~(c) 11.76% to the state highway account in the state special revenue fund;~~

~~(d) 16.93% to the traffic education account in the state special revenue fund;~~

~~(e) 0.57% to the department of livestock account in the state special revenue fund;~~

~~(f) 15.9% to the crime victims compensation account in the state special revenue fund; and~~

~~(g) 0.94% to the department of family services special revenue account for the battered spouses and domestic violence grant program.~~"

Section 4. Section 15-24-925, MCA, is amended to read:

"**15-24-925. Reimbursement to county -- transmission of taxes from county to state treasurer.** (1) The county treasurer may withhold 2% of the money received under 15-24-921 as reimbursement to

the county for the collection of the levy on livestock.

(2) Except for the amount withheld under subsection (1), the taxes levied and the money collected pursuant to the provisions of 15-24-922 ~~shall~~ must be transmitted to the state treasury by the county treasurer of each county, as provided in 15-1-504, but not later than July 1 following assessment. The county treasurer shall designate the amount received from the tax levied on sheep and the amount received from the tax levied on all other livestock and shall specify the separate amounts in ~~his~~ the report to the state treasurer. The money, when received by the state treasurer, ~~shall~~ must be deposited in an account in the special revenue fund to the credit of the department of livestock. The money in the account must be kept separate from other funds received by the department of livestock."

Section 5. Section 15-25-111, MCA, is amended to read:

"**15-25-111. Tax on dangerous drugs.** (1) There is a tax on the possession and storage of dangerous drugs. Except as provided in 15-25-112, each person possessing or storing dangerous drugs is liable for the tax. The tax imposed is determined pursuant to subsection (2). The tax is due and payable on the date of assessment. The department shall add an ~~administration~~ administrative fee of 5% of the tax imposed pursuant to subsection (2) to offset costs incurred in assessing value, in collecting the tax, and in any review and appeal process. The administrative fee must be deposited in the state general fund.

(2) With the exception that the tax on possession and storage of less than 1 ounce, 1 gram, or 100 micrograms of dangerous drugs must be that set forth below for 1 ounce, 1 gram, or 100 micrograms, the tax on possession and storage of dangerous drugs is the greater of:

(a) 10% of the assessed market value of the drugs, as determined by the department; or

(b) (i) $100 per ounce of marijuana, as defined in 50-32-101, or its derivatives, as determined by the aggregate weight of the substance seized;

(ii) $250 per ounce of hashish, as defined in 50-32-101, as determined by the aggregate weight of the substance seized;

(iii) $200 per gram of any substance containing or purported to contain any amount of a dangerous drug included in Schedule I, pursuant to 50-32-222(1), (2), (4), and (5), or Schedule II, pursuant to 50-32-224(1) through (4), as determined by the aggregate weight of the substance seized;

(iv) $10 per 100 micrograms of any substance containing or purported to contain any amount of lysergic acid diethylamide (LSD) included in Schedule I, pursuant to 50-32-222(3), as determined by the

aggregate weight of the substance seized;

(v) $100 per ounce of any substance containing or purported to contain any amount of an immediate precursor as defined under Schedule II, pursuant to 50-32-224(5), as determined by the aggregate weight of the substance seized; and

(vi) $100 per gram of any substance containing or purported to contain any amount of dangerous drug not otherwise provided for in this subsection (2).

(3) The tax imposed under this section may be collected before any state or federal fines or forfeitures have been satisfied."

Section 6. Section 15-25-122, MCA, is amended to read:

"**15-25-122. Disposition of proceeds.** The department shall, in accordance with the provisions of 15-1-501(6), transfer all taxes collected pursuant to this chapter, less the administrative fee authorized in 15-25-111(1), as follows:

(1) one-third of the tax to the credit of the department of family services to be used for the youth evaluation program and chemical abuse aftercare programs; and

(2) the remaining two-thirds of the tax proceeds as follows:

(a) one-half to the department of justice to be used:

(i) for grants to youth courts to fund chemical abuse assessments; and

(ii) for grants to counties to fund services for the detention of juvenile offenders in facilities separate from adult jails, as authorized in 41-5-1002; and

(b) one-half to the ~~account created by 44-12-206(3)~~ state general fund if a state government law enforcement agency seized the drugs. If a local government law enforcement agency seized the drugs, then that amount must be credited to the treasurer or finance officer of the local government, be deposited in its general fund, and be used to enforce drug laws."

Section 7. Section 15-35-108, MCA, is amended to read:

"**15-35-108. (Temporary) Disposal of severance taxes.** Severance taxes collected under this chapter must, in accordance with the provisions of 15-1-501(6), be allocated as follows:

(1) ~~To~~ Fifty percent of total coal severance tax collections must be allocated to the trust fund created by Article IX, section 5, of the Montana constitution~~, 50% of total coal severance tax collections~~.

The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) Starting July 1, 1987, and ending June 30, 2003, 12% of coal severance tax collections are allocated to the highway reconstruction trust fund account in the state special revenue fund.

(3) Coal severance tax collections remaining after allocation to the trust fund under subsection (1) are allocated in the following percentages of the remaining balance:

(a) 17½% to the credit of the local impact account. Unencumbered funds remaining in the local impact account at the end of each biennium are allocated to the state special revenue fund for state equalization aid to public schools of the state.

(b) 30% to the state special revenue fund for state equalization aid to public schools of the state;

(c) 1% to the state special revenue fund to the credit of the county land planning account;

(d) 1¼% to the credit of the renewable resource development bond fund;

(e) 0% to a nonexpendable trust fund for the purpose of parks acquisition or management. Income from this trust fund must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

(f) 1% to the state special revenue fund to the credit of the state library commission for the purposes of providing basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking;

(g) 1/2 of 1% to the state special revenue fund for conservation districts;

(h) 1¼% to the debt service fund type to the credit of the renewable resource loan debt service fund;

(i) 2% to the state special revenue fund for the Montana Growth Through Agriculture Act;

(j) 1 2/3% to a nonexpendable trust fund for the purpose of protection of works of art in the state capitol and for other cultural and aesthetic projects. Income from this trust fund ~~shall~~ must be appropriated for protection of works of art in the state capitol and other cultural and aesthetic projects.

(k) beginning July 1, 1993, and ending June 30, 1995, 3 1/3% to a special revenue account to be used by the department of fish, wildlife, and parks for the stabilization and preservation of historic and cultural sites within the state park system;

(l) all other ~~revenues~~ revenue from severance taxes collected under the provisions of this chapter to the credit of the general fund of the state. (Terminates June 30, 1995--sec. 4, Ch. 536, L. 1993.)

15-35-108. (Effective July 1, 1995) Disposal of severance taxes. Severance taxes collected under this chapter must, in accordance with the provisions of 15-1-501(6), be allocated as follows:

(1) ~~To~~ Fifty percent of total coal severance tax collections must be allocated to the trust fund created by Article IX, section 5, of the Montana constitution~~, 50% of total coal severance tax collections~~. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) Starting July 1, 1987, and ending June 30, 2003, 12% of coal severance tax collections are allocated to the highway reconstruction trust fund account in the state special revenue fund.

(3) Coal severance tax collections remaining after ~~allocation to the trust fund~~ the allocations under ~~subsection~~ subsections (1) and (2) are allocated in the following percentages of the remaining balance:

(a) ~~17½%~~ 22% to the credit of ~~the local impact~~ an account~~. Unencumbered funds remaining~~ in the state special revenue fund to be allocated by the legislature for local ~~impact account at the end of each biennium are allocated to the state special revenue fund for state equalization aid to public schools of the state.~~

~~(b) 30% to the state special revenue fund for state equalization aid to public schools of the state;~~

~~(c) 1% to the state special revenue fund to the credit of the~~ impacts, county land planning, ~~account~~ provisions of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act;

~~(d)~~(b) 1¼% to the credit of the renewable resource development bond fund;

~~(e)~~(c) 3 1/3% to a nonexpendable trust fund for the purpose of parks acquisition or management. Income from this trust fund must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

~~(f) 1% to the state special revenue fund to the credit of the state library commission for the purposes of providing basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking;~~

~~(g) 1/2 of 1% to the state special revenue fund for conservation districts;~~

~~(h)~~(d) 1¼% to the debt service fund type to the credit of the renewable resource loan debt service fund;

~~(i) 2% to the state special revenue fund for the Montana Growth Through Agriculture Act;~~

~~(i)~~(e) 1 2/3% to a nonexpendable trust fund for the purpose of protection of works of art in the state capitol and for other cultural and aesthetic projects. Income from this trust fund ~~shall~~ must be appropriated for protection of works of art in the state capitol and other cultural and aesthetic projects.

~~(k)~~(f) all other ~~revenues~~ revenue from severance taxes collected under the provisions of this chapter to the credit of the general fund of the state. (Terminates July 1, 2003--sec. 4, Ch. 191, L. 1991.)

15-35-108. (Effective July 1, 2003) Disposal of severance taxes. Severance taxes collected under this chapter must, in accordance with the provisions of 15-1-501(6), be allocated as follows:

(1) ~~To~~ Fifty percent of total coal severance tax collections must be allocated to the trust fund created by Article IX, section 5, of the Montana constitution~~, 50% of total coal severance tax collections~~. The trust fund money must be deposited in the fund established under 17-6-203(6) and invested by the board of investments as provided by law.

(2) Coal severance tax collections remaining after allocation to the trust fund under subsection (1) are allocated in the following percentages of the remaining balance:

(a) ~~17½%~~ 22% to the credit of ~~the local impact~~ an account~~. Unencumbered funds remaining~~ in the state special revenue fund to be allocated by the legislature for local ~~impact account at the end of each biennium are allocated to the state special revenue fund for state equalization aid to public schools of the state.~~

~~(b) 30% to the state special revenue fund for state equalization aid to public schools of the state;~~

~~(c) 1% to the state special revenue fund to the credit of the~~ impacts, county land planning, ~~account~~ provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking, conservation districts, and the Montana Growth Through Agriculture Act;

~~(d)~~(b) 1¼% to the credit of the renewable resource development bond fund;

~~(e)~~(c) 3 1/3% to a nonexpendable trust fund for the purpose of parks acquisition or management. Income from this trust fund must be appropriated for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102.

~~(f) 1% to the state special revenue fund to the credit of the state library commission for the purposes of providing basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking;~~

~~(g) 1/2 of 1% to the state special revenue fund for conservation districts;~~

~~(h)~~(d) 1¼% to the debt service fund type to the credit of the renewable resource loan debt service fund;

~~(i) 2% to the state special revenue fund for the Montana Growth Through Agriculture Act;~~

~~(j)~~(e) 1 2/3% to a nonexpendable trust fund for the purpose of protection of works of art in the state capitol and for other cultural and aesthetic projects. Income from this trust fund ~~shall~~ must be appropriated for protection of works of art in the state capitol and other cultural and aesthetic projects.

~~(k)~~(f) all other ~~revenues~~ revenue from severance taxes collected under the provisions of this chapter to the credit of the general fund of the state."

Section 8. Section 15-65-121, MCA, is amended to read:

"**15-65-121. ~~Distribution~~ Deposit of tax proceeds ~~—general fund loan authority~~.** ~~(1)~~ The proceeds of the tax imposed by 15-65-111 must, in accordance with the provisions of 15-1-501(6), be deposited in an account in the state ~~special revenue~~ general fund ~~to the credit of the department of revenue~~. The department of revenue may ~~spend from that account~~ pay the expenses of collecting the tax in accordance with an expenditure appropriation by the legislature based on an estimate of the costs of collecting ~~and disbursing~~ the proceeds of the tax. ~~Before allocating the balance of the tax proceeds in accordance with the provisions of 15-1-501(6) and as provided in subsections (1)(a) through (1)(d), the department shall determine the expenditures by state agencies for in-state lodging for each reporting period and deduct 4% of that amount from the tax proceeds received each reporting period. The amount deducted must be deposited in the general fund. The balance of the tax proceeds received each reporting period and not deducted pursuant to the expenditure appropriation or deposited in the general fund is statutorily appropriated, as provided in 17-7-502, and must be transferred to an account in the state special revenue fund to the credit of the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials, to the Montana historical society, to the university system, and to the department of fish, wildlife, and parks, as follows:~~

~~(a) 1% to the Montana historical society to be used for the installation or maintenance of roadside historical signs and historic sites;~~

~~(b) 2.5% to the university system for the establishment and maintenance of a Montana travel research program;~~

~~(c) 6.5% to the department of fish, wildlife, and parks for the maintenance of facilities in state~~

~~parks that have both resident and nonresident use, subject to 23-1-131; and~~

~~(d) the balance of the proceeds as follows:~~

~~(i) 75% to be used directly by the department of commerce;~~

~~(ii) except as provided in subsection (1)(d)(iii), 25% to be distributed by the department to regional nonprofit tourism corporations in the ratio of the proceeds collected in each tourism region to the total proceeds collected statewide; and~~

~~(iii) if 25% of the proceeds collected annually within the limits of a city or consolidated city-county exceeds $35,000, 50% of the amount available for distribution to the regional nonprofit tourism corporation in the region where the city or consolidated city-county is located is to be distributed to the nonprofit convention and visitors bureau in that city or consolidated city-county.~~

~~(2) If a city or consolidated city-county qualifies under this section for funds but fails to either recognize a nonprofit convention and visitors bureau or submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds must be allocated to the regional nonprofit tourism corporation in the region in which the city or consolidated city-county is located.~~

~~(3) If a regional nonprofit tourism corporation fails to submit and gain approval for an annual marketing plan as required in 15-65-122, then those funds otherwise allocated to the regional nonprofit tourism corporation may be used by the department of commerce for tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials.~~

~~(4) The department of commerce may use general fund loans for efficient implementation of this section.~~"

Section 9. Section 15-70-101, MCA, is amended to read:

"**15-70-101. Disposition of funds.** All taxes~~, interest, and penalties~~ collected under this chapter~~, except those collected by a justice's court,~~ must, in accordance with the provisions of 15-1-501(6), be placed in a highway revenue account in the state special revenue fund to the credit of the department of transportation. Those funds allocated to cities, towns, and counties in this section must, in accordance with the provisions of 15-1-501(6), be paid by the department of transportation from the state special revenue fund to the cities, towns, and counties.

(1) The amount of $16,766,000 of the ~~funds~~ taxes collected under this chapter~~, except those collected by a justice's court,~~ is statutorily appropriated, as provided in 17-7-502, to the department of

transportation and must be allocated each fiscal year on a monthly basis to the counties and incorporated cities and towns in Montana for construction, reconstruction, maintenance, and repair of rural roads and city or town streets and alleys, as provided in subsections (1)(a) through (1)(c):

(a) The amount of $54,000 must be designated for the purposes and functions of the Montana rural technical assistance transportation program in Bozeman~~;~~.

(b) The amount of $6,323,000 must be divided among the various counties in the following manner:

(i) 40% in the ratio that the rural road mileage in each county, exclusive of the federal-aid interstate system and the federal-aid primary system, bears to the total rural road mileage in the state, exclusive of the federal-aid interstate system and the federal-aid primary system;

(ii) 40% in the ratio that the rural population in each county outside incorporated cities and towns bears to the total rural population in the state outside incorporated cities and towns;

(iii) 20% in the ratio that the land area of each county bears to the total land area of the state~~;~~.

(c) The amount of $10,389,000 must be divided among the incorporated cities and towns in the following manner:

(i) 50% of the sum in the ratio that the population within the corporate limits of the city or town bears to the total population within corporate limits of all the cities and towns in Montana;

(ii) 50% in the ratio that the city or town street and alley mileage, exclusive of the federal-aid interstate system and the federal-aid primary system, within corporate limits bears to the total street and alley mileage, exclusive of the federal-aid interstate system and federal-aid primary system, within the corporate limits of all cities and towns in Montana.

(2) All funds allocated by this section to counties, cities, and towns must be used for the construction, reconstruction, maintenance, and repair of rural roads or city or town streets and alleys or for the share that the city, town, or county might otherwise expend for proportionate matching of federal funds allocated for the construction of roads or streets that are part of the federal-aid primary or secondary highway system or urban extensions to those systems, except that the governing body of a town or third-class city, as defined in 7-1-4111, may each year expend no more than 25% of the funds allocated to that town or third-class city for the purchase of capital equipment and supplies to be used for the maintenance and repair of town or third-class city streets and alleys.

(3) All funds allocated by this section to counties, cities, and towns must be disbursed to the

lowest responsible bidder according to applicable bidding procedures followed in all cases in which the contract for construction, reconstruction, maintenance, or repair is in excess of $4,000.

(4) For the purposes of this section in which distribution of funds is made on a basis related to population, the population must be determined by the last preceding official federal census.

(5) For the purposes of this section in which determination of mileage is necessary for distribution of funds, it is the responsibility of the cities, towns, and counties to furnish to the department of transportation a yearly certified statement indicating the total mileage within their respective areas applicable to this chapter. All mileage submitted is subject to review and approval by the department of transportation.

(6) Except by a town or third-class city as provided in subsection (2), the funds authorized by this section may not be used for the purchase of capital equipment.

(7) Funds authorized by this section must be used for construction and maintenance programs ~~only~~."

Section 10. Section 15-70-102, MCA, is amended to read:

"**15-70-102. Allocation of funds -- participation in railroad grade crossing protection.** (1) The ~~sum of $100,000~~ amount determined necessary may be allocated from the state special revenue fund, ~~state~~ highway revenue account, ~~for the fiscal year ending June 30, 1973, and so much~~ for each ~~succeeding~~ fiscal year ~~as may be necessary to reimburse the fund~~ for expenditures and commitments made ~~and to maintain the fund at $100,000 at the beginning of each fiscal year thereafter,~~ for participation by the department of transportation with railroads in construction of railroad grade crossing protection on any public highway or road, except those designated on the interstate, primary, or urban systems within the state. The department of transportation shall select those grade crossings in the state ~~which~~ that, in the opinion of the department, are most in need of additional crossing protection and shall finance the cost ~~thereof~~ of the improvements solely from this fund.

(2) Signal protection provided under ~~the fund shall be~~ this section is limited to electric or automatic flashing lights or gates, depending on the amount and nature of the hazards present at the crossing, and participation in construction of ~~such~~ the signals ~~shall~~ must be on the same basis and under the same standards as are applicable and used in connection with protection of grade crossings on federal-aid roads within the state~~, provided, however, the fund shall~~ The account may not be used for protection of grade

crossings on the secondary system where the protection is considered necessary and when the cost ~~thereof~~ is financed in part with federal-aid highway funds.

(3) In addition to the funds allocated, counties and cities may authorize the use of funds available to ~~said~~ counties and cities under the provisions of 15-70-101 for participation ~~of~~ in the installation in grade crossing protection within the county or city."

NEW SECTION. **Section 11. Highway nonrestricted account.** There is a highway nonrestricted account in the state special revenue fund. All interest and penalties collected under this chapter, except those collected by a justice's court, must, in accordance with the provisions of 15-1-501(6), be placed in the highway nonrestricted account.

Section 12. Section 15-71-104, MCA, is amended to read:

"**15-71-104. Disposition of funds.** All taxes collected under this chapter must, in accordance with the provisions of 15-1-501(6), be placed in the highway revenue account, state special revenue fund, to the credit of the department of transportation."

Section 13. Section 17-1-501, MCA, is amended to read:

"**17-1-501. Legislative findings.** (1) The legislature finds that provisions for dedicating state revenue and statutorily appropriating funds have increased in number, reduce legislative control over state spending, complicate the state funding structure, and increase the effort required to budget, appropriate, and monitor public funds. The dedication and statutory appropriation of funds ~~results~~ result in the inability of the legislature to practically and systematically conduct reasoned prioritization of programs or funds.

(2) It is the intent of the legislature, by establishing ~~a system~~ criteria for the review and evaluation of revenue dedication provisions, to ensure that provisions for revenue dedication:

(a) are based on sound principles of revenue dedication as described in [section 18];

(b) reflect present circumstances and legislative priorities for state spending; ~~and~~

(c) are terminated when they are no longer ~~are~~ necessary or appropriate; and

(d) are subject to the same legislative scrutiny as programs or activities funded from the general fund.

(3) It is the intent of the legislature, by establishing criteria for the review and evaluation of

statutory appropriation provisions, to ensure that provisions with statutory appropriations:

(a) reflect present circumstances and legislative priorities for state spending;

(b) are terminated when they are no longer necessary or appropriate; and

(c) are subject to the same legislative scrutiny as other appropriations."

Section 14. Section 17-1-502, MCA, is amended to read:

"**17-1-502. Definitions.** As used in this part, unless the context requires otherwise, the following definitions apply:

(1) "Administrative costs" includes:

(a) personal services;

(b) operating expenses, such as travel, supplies, and communication costs; and

(c) capital expenses, such as equipment, building costs, and real property costs.

(2) (a) "Continuing and reliable source of revenue" means a revenue source for which an agency forecasts an annual level of collections based upon historical data and prepares a budget for expenditures commensurate with the level of collections. Collections may not change significantly on an annual basis.

(b) The term does not include revenue:

(i) that an agency will receive only as a result of an occurrence that is not a routine part of agency operations;

(ii) that will vary significantly on an annual basis; or

(iii) that is unable to be included in the agency budget because of the erratic nature of receipt.

~~(1)~~(3) "Dedicated revenue provision" means an administrative or legislative action that allocates the revenue from a tax, fee, assessment, or other source to an account in the state special revenue fund as described in 17-2-102.

(4) "General revenue source" means a source of revenue not governed by established or implied restrictions based on the source or limited use of the revenue. The term includes taxes, interest earnings, investment earnings, fines, and forfeitures.

~~(2)~~(5) "State special revenue fund" means a fund in the state treasury consisting of money from state sources that is earmarked for the purposes of defraying particular costs of an agency, program, or function of state government, as provided in 17-2-102."

Section 15. Section 17-1-503, MCA, is amended to read:

"**17-1-503. Transfer of fund balances to general fund.** (1) ~~On April 29, 1993, the~~ The balance remaining in each special revenue account terminated pursuant to legislative review must be deposited in the general fund.

(2) If the legislative finance committee concurs, the department may transfer the unobligated balance in a special revenue account to the general fund based upon the survey conducted pursuant to 17-2-111."

Section 16. Section 17-1-504, MCA, is amended to read:

"**17-1-504. Effect of termination.** (1) If the legislature has appropriated the revenue from an account ~~provided for in 15-1-501, 20-9-343, and 31-1-602~~ terminated pursuant to legislative review, the appropriation is considered to have been made from the general fund.

(2) All assets, liabilities, and fund balances of accounts terminated ~~by 15-1-501, 20-9-343, and 31-1-602~~ pursuant to legislative review accrue to the general fund."

Section 17. Section 17-1-505, MCA, is amended to read:

"**17-1-505. ~~Legislative review and report~~ Review of dedicated revenue provisions.** (1) Each interim, the legislative finance committee shall review each dedicated revenue provision not exempted under subsection ~~(3)~~(4) and ~~review statutory appropriations assigned by the legislature~~ the principles of revenue dedication set forth in [section 18] to ensure that legislative policy is clearly stated. The committee shall also carry out the review prescribed by subsection (4).

(2) The ~~review conducted by the committee must include an evaluation of the~~ legislature recognizes that dedicated revenue ~~provision, based on whether it:~~ provisions are subject to review by:

(a) the office of budget and program planning in the development and implementation of the executive budget and analysis of legislation;

(b) the office of the legislative fiscal analyst in analyzing the executive budget;

(c) the legislative council in drafting legislation;

(d) the legislative auditor in auditing agencies; and

(e) the department of administration in performing the functions provided for in 17-2-106 and 17-2-111.

(3) To avoid unnecessary use of dedicated revenue provisions, the entities listed in subsection (2) shall, in the course of current duties, consider the principles in [section 18] and the criteria listed in this subsection for each new or existing dedicated revenue provision. A dedicated revenue provision should not give a program or activity an unfair advantage for funding. The expenditures from a dedicated revenue provision must be based on requirements for meeting a legislatively established outcome. Statutorily mandated programs or activities funded through dedicated revenue provisions from general revenue sources must be reviewed to the same extent as programs or activities funded from the general fund. The use of a dedicated revenue provision may be justified if it satisfies one or more of the following:

(a) The program or activity funded provides direct benefits for those who pay the dedicated tax, fee, or assessment, and the tax, fee, or assessment is commensurate with the costs of the program or activity~~;~~.

(b) The use of the dedicated revenue provision provides special information or other advantages that could not be obtained if the revenue were allocated to the general fund~~;~~.

(c) ~~provides~~ The dedicated revenue provision provides program funding at a level equivalent to the expenditures established by the legislature~~;~~.

(d) The dedicated revenue provision involves collection and allocation formulas that are appropriate to the present circumstances and current priorities in state government~~;~~.

(e) ~~impairs~~ The dedicated revenue provision does not impair the legislature's ability to scrutinize budgets, control expenditures, and establish priorities for state spending~~;~~.

(f) The dedicated revenue provision results in ~~an inappropriate~~ an appropriate projected ending fund balance~~;~~.

(g) The dedicated revenue provision fulfills a continuing, legislatively recognized need~~; and~~.

(h) ~~results~~ The dedicated revenue provision does not result in accounting or auditing inefficiency.

~~(3)~~(4) The committee shall establish procedures to facilitate ~~the~~ a biennial review and evaluation ~~required by this section~~ of dedicated revenue provisions. ~~Each interim, the committee shall attempt to propose measures that will reduce dedicated revenue to an amount that is less than one-third of all state revenue.~~ If the review determines that the revenue dedication is constitutionally mandated, is for debt service, funds emergency services, or is a user fee that is designed to provide direct benefits for those who pay the dedicated tax, fee, or assessment in an amount commensurate with the benefits provided, the revenue dedication ~~does not need a~~ may be exempt from future review.

~~(4)~~(5) Upon completion of the review, the committee shall report a summary of its findings to the legislature, including its recommendation of termination or extension, with or without modification, of the dedicated revenue provision. The summary must include the purpose of the revenue dedication, the source of funding, the activity funded, the number of personnel associated with the activity, and any balance in the dedicated revenue fund. The summary must state the reason why the revenue dedication is exempt from future review.

~~(5) The committee shall review statutory appropriations to determine if the appropriation should be made by a legislative appropriation. During the 1995 biennium, the committee shall review the statutory appropriation of administrative costs in 75-11-313.~~"

NEW SECTION. **Section 18. Principles of revenue dedication.** (1) It is the policy of the legislature that a revenue source not be dedicated for a specific purpose unless one or more of the following conditions are met:

(a) The person or entity paying the tax, fee, or assessment is the direct beneficiary of the specific activity that is funded by the tax, fee, or assessment; the entire cost of the activity is paid by the beneficiary; and the tax, fee, or assessment paid is commensurate with the cost of the activity, including reasonable administrative costs.

(b) There is an expectation that funds donated by a person or entity will be used for a specified purpose. Grants from private or public entities are considered donations under this subsection.

(c) There is a legal basis for the revenue dedication. A legal basis is a constitutional mandate, federal mandate, or statutory requirement in which a source of funds is designated for a specific purpose.

(d) There is a recognized need for accountability through a separation of funding from the general fund consistent with generally accepted accounting principles.

(2) The total funding for a program is a legislative budget and policy issue for which a dedicated revenue provision may not be justified if:

(a) a general fund appropriation is needed to supplement the dedicated revenue support for the program or activity; or

(b) dedicating a revenue source or portion of a revenue source diverts funds that could be considered a general revenue source.

(3) In the consideration of the general appropriations act for each biennium, the legislature shall

determine the appropriateness of dedicating revenue to a program or activity under conditions described in subsection (2). The office of budget and program planning shall describe the occurrence in its presentation of the executive budget, and the legislative fiscal analyst shall highlight the issue in the budget analysis and for the appropriations subcommittee considering the revenue dedication.

NEW SECTION. **Section 19. Review of statutory appropriations.** (1) Each interim, the legislative finance committee shall review the criteria set forth in subsection (4) to ensure that legislative policy is clearly stated concerning the use of statutory appropriations.

(2) Each biennium, the office of budget and program planning and the legislative fiscal analyst shall, in development and analysis of the executive budget, identify instances in which statutory appropriations in current law do not appear consistent with the criteria set forth in subsection (4).

(3) As part of each agency audit, the legislative auditor shall review statutory appropriations to the agency and report instances in which they do not appear consistent with the criteria set forth in subsection (4).

(4) The review of statutory appropriations must determine whether a statutory appropriation meets the requirements of 17-1-505. A statutory appropriation from a continuing and reliable source of revenue may not be used to fund administrative costs.

(5) The office of budget and program planning shall, consistent with the review provisions in this section, review each piece of legislation that proposes to create or amend a statutory appropriation. Its findings concerning the statutory appropriation must be contained in the fiscal note accompanying the legislation.

Section 20. Section 17-2-111, MCA, is amended to read:

"**17-2-111. ~~Review~~ Survey of state special revenue accounts ~~and proprietary accounts~~ -- report ~~-- transfer of funds~~.** ~~(1)~~ Each biennium, the department ~~of administration~~ shall ~~examine~~ conduct a survey of all state special revenue accounts ~~and proprietary accounts as required by this section and report the findings and recommendations~~ not exempt under 17-1-505 and coordinate with the legislative finance committee to provide information necessary to complete the review required by 17-1-505. The department shall provide the survey information to the legislative finance committee not later than ~~June~~ February 1 of the year preceding a regular session of the legislature.

~~(2) The department shall examine restrictions against the transfer of unobligated balances in state special revenue accounts to the general fund. If such restrictions are considered unnecessary by the department and if they may be eliminated by administrative action, the department shall to the fullest extent possible eliminate such restrictions and require the transfer of unobligated balances in the accounts to be made to the general fund, either on an annual or biennial basis. If administrative action is unavailable, the department shall make recommendations for legislative action.~~

~~(3) The department shall examine all state special revenue accounts and proprietary accounts to determine if they should continue to exist or be eliminated or modified to provide better program operation or fiscal control. In conducting the examination, the department shall consider whether an account:~~

~~(a) is accurately classified as a state special revenue account or proprietary account;~~

~~(b) is required by the Montana constitution or by statute;~~

~~(c) operates in compliance with the statutes that established the program;~~

~~(d) receives an amount of revenue that is equal to or close to the expenditure required for the activity funded by the account;~~

~~(e) allows the funded program to operate without supplemental general funds; and~~

~~(f) has any restrictions against the transfer of unobligated balances in the account to the general fund.~~"

Section 21. Section 17-5-704, MCA, is amended to read:

"**17-5-704. Investment of funds.** Money in the coal severance tax bond fund, the coal severance tax permanent fund, the coal severance tax income fund, and the coal severance tax school bond contingency loan fund must be invested in accordance with the investment standards for coal severance tax funds. Income and earnings from all funds ~~are statutorily appropriated, as provided in 17-7-502, as follows:~~

~~(1) 15% to the state equalization aid account; and~~

~~(2) 85% to~~ must be deposited in the state general fund."

Section 22. Section 17-6-409, MCA, is amended to read:

"**17-6-409. Authority to accept funds ~~—statutory appropriation~~ -- funding authorization.** (1) The department may accept grants, donations, and other private and public income, including payments of

interest on loans made by the department under the provisions of this part and fees charged by the department. The department shall deposit all money received under this section in the microbusiness finance program administrative account established in 17-6-407.

(2) The money in the microbusiness finance program administrative account ~~is statutorily appropriated to the department, as provided in 17-7-502,~~ may be appropriated for the purposes stated in this part."

Section 23. Section 17-7-502, MCA, is amended to read:

"**17-7-502. Statutory appropriations -- definition -- requisites for validity.** (1) A statutory appropriation is an appropriation made by permanent law that authorizes spending by a state agency without the need for a biennial legislative appropriation or budget amendment.

(2) Except as provided in subsection (4), to be effective, a statutory appropriation must comply with both of the following provisions:

(a) The law containing the statutory authority must be listed in subsection (3).

(b) The law or portion of the law making a statutory appropriation must specifically state that a statutory appropriation is made as provided in this section.

(3) The following laws are the only laws containing statutory appropriations: 2-9-202; 2-17-105; 2-18-812; 3-5-901; 5-13-403; 10-3-203; 10-3-312; 10-3-314; 10-4-301; 15-1-111; 15-23-706; ~~15-25-123;~~ 15-31-702; 15-36-112; 15-37-117; 15-38-202; ~~15-65-121;~~ 15-70-101; 16-1-404; 16-1-410; 16-1-411; 17-3-106; 17-3-212; 17-5-404; 17-5-424; ~~17-5-704;~~ 17-5-804; 17-6-101; 17-6-201; ~~17-6-409;~~ 17-7-304; 18-11-112; 19-2-502; 19-6-709; 19-9-1007; 19-15-101; 19-17-301; 19-18-512; 19-18-513; 19-18-606; 19-19-205; 19-19-305; 19-19-506; ~~20-4-109;~~ 20-8-111; 20-9-361; 20-26-1403; 20-26-1503; ~~23-2-823;~~ 23-5-136; 23-5-306; 23-5-409; 23-5-610; 23-5-612; 23-5-631; 23-7-301; 23-7-402; ~~27-12-206;~~ 32-1-537; 37-43-204; 37-51-501; 39-71-503; 39-71-907; 39-71-2321; 39-71-2504; ~~44-12-206;~~ 44-13-102; 50-5-232; 50-40-206; 53-6-150; 53-24-206; 60-2-220; ~~61-2-107;~~ 67-3-205; 75-1-1101; 75-5-507; 75-5-1108; 75-11-313; 76-12-123; ~~77-1-808;~~ 80-2-103; 80-2-222; 80-4-416; ~~80-11-310;~~ 81-5-111; 82-11-136; 82-11-161; 85-1-220; 85-20-402; 90-3-301; 90-4-215; 90-6-331; 90-7-220; 90-9-306; and 90-14-107.

(4) There is a statutory appropriation to pay the principal, interest, premiums, and costs of issuing, paying, and securing all bonds, notes, or other obligations, as due, that have been authorized and issued

pursuant to the laws of Montana. Agencies that have entered into agreements authorized by the laws of Montana to pay the state treasurer, for deposit in accordance with 17-2-101 through 17-2-107, as determined by the state treasurer, an amount sufficient to pay the principal and interest as due on the bonds or notes have statutory appropriation authority for the payments. (In subsection (3): pursuant to sec. 7, Ch. 567, L. 1991, the inclusion of 19-6-709 terminates upon death of last recipient eligible for supplemental benefit; and pursuant to sec. 15, Ch. 534, L. 1993, the inclusion of 90-14-107 terminates July 1, 1995.)"

Section 24. Section 19-8-504, MCA, is amended to read:

"**19-8-504. State's contribution.** ~~(1)~~ To fund the employer's portion of the normal cost of benefits under this chapter, each month the state treasurer shall pay to the pension trust fund:

~~(a)~~(1) out of the department of fish, wildlife, and parks funds, a sum equal to 7.15% of all members' salaries; and

~~(b)~~(2) out of the funds collected as fines and forfeited bonds under the provisions of 87-1-601(1) through (5) ~~or funds distributed under 3-10-601(4)~~, an amount equal to 1% of all members' salaries.

~~(2) In addition to the contributions provided in subsection (1), the state treasurer shall pay to the pension trust fund the balance of the funds distributed to the fish and game account pursuant to 3-10-601 until the unfunded liability in the pension trust fund is fully paid and a verification statement to that effect is given to the state treasurer by the board.~~"

Section 25. Section 20-4-109, MCA, is amended to read:

"**20-4-109. Fees for teacher and specialist certificates.** (1) A person applying for the issuance or renewal of a teacher or specialist certificate shall pay a fee not to exceed $6 for each school fiscal year that the certificate is valid. In addition to this fee, a person who has never held any class of Montana teacher or specialist certificate or for whom an emergency authorization of employment has never been issued shall pay a filing fee of $6. The fees must be paid to the superintendent of public instruction, who shall deposit the fees with the state treasurer to the credit of the state special revenue fund account, created in subsection (2), to be used in the following manner:

(a) $3 for expenses of the certification standards and practices advisory council created in 2-15-1522;

(b) $3 to the board of public education to be used by the certification standards and practices advisory council for research in accordance with the duties of the council provided for in 20-4-133.

(2) There is an account in the state special revenue fund. Money from fees for teacher or specialist certificates required in subsection (1) must be deposited in the account. ~~The money in the account to be used for the purposes of subsection (1)(b) is statutorily appropriated, as provided in 17-7-502, to the board of public education for use by the certification standards and practices advisory council.~~"

Section 26. Section 20-5-324, MCA, is amended to read:

"**20-5-324. Tuition report and payment provisions.** (1) At the close of the school term of each school fiscal year and before July 15, the trustees of a district shall report to the county superintendent:

(a) the name and district of residence of each child who is attending a school of the district under an approved mandatory out-of-district attendance agreement;

(b) the number of days of enrollment for each child reported under the provisions of subsection (1)(a);

(c) the annual tuition rate for each child's tuition payment, as determined under the provisions of 20-5-323, and the tuition cost for each reported child; and

(d) the names, districts of attendance, and amount of tuition to be paid by the district for resident students attending public schools out of state.

(2) The county superintendent shall send, as soon as practicable, the reported information to the county superintendent of the county in which a reported child resides.

(3) Before July 30, the county superintendent shall report the information in subsection (1)(d) to the superintendent of public instruction, who shall determine the total ~~foundation~~ BASE aid amount for which the district would be eligible if the student were enrolled in the resident district. The reimbursement amount is the difference between the actual amount paid and the amount calculated in this subsection.

(4) Notwithstanding the requirements of subsection (5), tuition payment provisions for out-of-district placement of students with disabilities must be determined pursuant to Title 20, chapter 7, part 4.

(5) Except as provided in subsection (6), when a child has approval to attend a school outside the child's district of residence under the provisions of 20-5-320 or 20-5-321, the district of residence shall finance the tuition amount from the district tuition fund and any transportation amount from the

transportation fund.

(6) When a child has mandatory approval under the provisions of 20-5-321, the tuition and transportation obligation for an elementary school child attending a school outside of the child's county of residence must be financed by the county basic tax for elementary districts, as provided in 20-9-331, for the child's county of residence or for a high school child attending a school outside the county of residence by the county basic tax for high school districts, as provided in 20-9-333, for the child's county of residence.

(7) By December 31 of the school fiscal year, the county superintendent or the trustees shall pay at least one-half of any tuition and transportation obligation established under this section out of the money realized to date from the appropriate basic county tax account provided for in 20-9-334 or from the district tuition or transportation fund. The remaining tuition and transportation obligation must be paid by June 15 of the school fiscal year. The payments must be made to the county treasurer in each county with a school district that is entitled to tuition and transportation. Except as provided in subsection (9), the county treasurer shall credit tuition receipts to the general fund of a school district entitled to a tuition payment. The tuition receipts must be used in accordance with the provisions of 20-9-141. The county treasurer shall credit transportation receipts to the transportation fund of a school district entitled to a transportation payment.

(8) The superintendent of public instruction shall reimburse the district of residence ~~from the state equalization account~~ for the ~~foundation~~ BASE aid amount determined in subsection (3).

(9) (a) Any tuition receipts received under the provisions of Title 20, chapter 7, part 4, or 20-5-323(3) for the current school fiscal year that exceed the tuition receipts of the prior year may be deposited in the district miscellaneous programs fund and must be used for that year in the manner provided for in 20-9-507 to support the costs of the program for which the tuition was received.

(b) Any other tuition receipts received for the current school fiscal year that exceed the tuition receipts of the prior year may be deposited in the district miscellaneous programs fund and may be used for that year in the manner provided for in that fund. For the ensuing school fiscal year, the receipts must be credited to the district general fund budget."

Section 27. Section 20-7-420, MCA, is amended to read:

"**20-7-420. Residency requirements -- financial responsibility for special education.** (1) In

accordance with the provisions of 1-1-215, a child's district of residence for special education purposes is the residence of the child's parents or of the child's guardian if the parents are deceased, unless otherwise determined by the court. This applies to a child living at home, in an institution, or under foster care. If the parent has left the state, the parent's ~~last-known~~ last-known district of residence is the child's district of residence.

(2) The county of residence is financially responsible for tuition and transportation as established under 20-5-323 for a child with disabilities, as defined in 20-7-401, including a child who has been placed by a state agency in a foster care or group home licensed by the state. The county of residence is not financially responsible for tuition and transportation for a child with disabilities who is placed by a state agency in an out-of-state public school or an out-of-state private residential facility.

(3) If an eligible child, as defined in 20-7-436, is receiving inpatient treatment in an in-state residential treatment facility or children's psychiatric hospital, as defined in 20-7-436, and the educational services are provided by a public school district under the provisions of 20-7-411 or 20-7-435, the superintendent of public instruction shall reimburse the district providing the services for the negotiated amount, as established pursuant to 20-7-435(5), that represents the district's costs of providing education and related services. Payments must be made from funds appropriated for this purpose. If the negotiated amount exceeds the daily membership rate under 20-7-435(3) and any per-ANB amount of direct state aid, the superintendent of public instruction shall pay the remaining balance from ~~the state equalization aid account~~ available funds. However, the amount spent from ~~the state equalization aid account~~ available funds for this purpose may not exceed $500,000 during any biennium.

(4) Under the provisions of 20-7-422(3), the superintendent of public instruction shall provide funds for the education fees required to provide a free appropriate public education for a child with disabilities who is in need of special education and related services and is placed by a state agency in an out-of-state private residential facility or out-of-state public school, provided that, in determining the special education services needed for the child with disabilities, the district of residence has complied with the rules promulgated under 20-7-402.

(5) A state agency that makes a placement of a child with disabilities is responsible for the financial costs of room and board and the treatment of the child."

Section 28. Section 20-7-504, MCA, is amended to read:

"**20-7-504. State traffic education account -- proceeds earmarked for the account.** (1) There is a traffic education account in the treasury of the state of Montana.

(2) ~~Money paid into the account pursuant to 3-10-601 must be distributed to approved traffic education courses as provided in 20-7-506.~~

~~(3)~~ Money collected and accrued from motorcycle safety training courses, designated grants, and motorcycle registration fees or an amount equal to that amount must be deposited in the state traffic education account as provided in 20-7-513 and 20-7-514 and must be available to support only approved motorcycle safety training courses, appropriate motorcycle safety instructor training, and other related motorcycle safety training activities."

Section 29. Section 20-7-605, MCA, is amended to read:

"**20-7-605. Notification and processing of complaint against a licensed textbook dealer.** (1) A district or county superintendent shall notify the superintendent of public instruction whenever it is ascertained that a licensed textbook dealer is:

(a) offering to sell textbooks at a higher price than the listed uniform sales price filed with the superintendent of public instruction;

(b) offering to sell textbooks at a higher shipping point price than the shipping point price of the same textbooks distributed elsewhere in the United States; or

(c) in any other way performing contrary to the laws regulating the offering of textbooks for sale or adoption to districts.

(2) Upon receipt of such notification from the district or county superintendent, the superintendent of public instruction shall notify the appropriate licensed textbook dealer of the complaint. If the superintendent of public instruction finds that the licensed textbook dealer has violated any provision of this section and the dealer fails to rectify ~~his~~ the error within 30 days of the notification of the finding of a violation, ~~he~~ the dealer shall forfeit ~~his~~ the dealer's surety bond. The attorney general, upon written request of the superintendent of public instruction, shall proceed to collect by legal action the full amount of the surety bond. Any amount ~~so~~ recovered ~~shall~~ must be paid into the state ~~public school equalization aid account~~ general fund."

Section 30. Section 20-9-166, MCA, is amended to read:

"**20-9-166. State financial aid for budget amendments.** Whenever a final budget amendment has been adopted for the general fund or the transportation fund to finance the cost of an amendment resulting from increased enrollment, the trustees may apply to the superintendent of public instruction for an increased payment from the state ~~public school equalization aid account~~ for the BASE funding program or for state transportation reimbursement, or both. The superintendent of public instruction shall adopt rules for the application. The superintendent of public instruction shall approve or disapprove each application for increased state aid made in accordance with 20-9-314 and this section. When the superintendent of public instruction approves an application, the superintendent of public instruction shall determine the additional amount of state aid from the state ~~public school equalization aid account~~ or the state transportation reimbursement that will be made available to the applicant district because of the increase in enrollment. The superintendent of public instruction shall notify the applicant district of the superintendent's approval or disapproval and, in the event of approval, the amount of additional state aid that will be made available for the general fund or the transportation fund. The superintendent of public instruction shall disburse the state aid to the eligible district at the time the next regular state aid payment is made."

Section 31. Section 20-9-331, MCA, is amended to read:

"**20-9-331. Basic county tax and other ~~revenues~~ revenue for county equalization of the elementary district BASE funding program.** (1) The county commissioners of each county shall levy an annual basic tax of 33 mills on the dollar of the taxable value of all taxable property within the county, except for property subject to a tax or fee under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for the purposes of local and state BASE funding program support. The revenue collected from this levy must be apportioned to the support of the elementary BASE funding programs of the school districts in the county and to the state ~~special revenue~~ general fund~~, state equalization aid account,~~ in the following manner:

(a) In order to determine the amount of revenue raised by this levy that is retained by the county, the sum of the estimated revenue identified in subsection (2) must be subtracted from the total of the BASE funding programs of all elementary districts of the county.

(b) If the basic levy and other revenue prescribed by this section produce more revenue than is required to repay a state advance for county equalization, the county treasurer shall remit the surplus funds

to the state treasurer for deposit to the state ~~special revenue~~ general fund~~, state equalization aid account,~~ immediately upon occurrence of a surplus balance and each subsequent month thereafter, with any final remittance due no later than June 20 of the fiscal year for which the levy has been set.

(2) The revenue realized from the county's portion of the levy prescribed by this section and the revenue from the following sources must be used for the equalization of the elementary BASE funding program of the county as prescribed in 20-9-335, and a separate accounting must be kept of the revenue by the county treasurer in accordance with 20-9-212(1):

(a) the portion of the federal Taylor Grazing Act funds distributed to a county and designated for the common school fund under the provisions of 17-3-222;

(b) the portion of the federal flood control act funds distributed to a county and designated for expenditure for the benefit of the county common schools under the provisions of 17-3-232;

(c) all money paid into the county treasury as a result of fines for violations of law, except money paid to a justice's court, and the use of which is not otherwise specified by law;

(d) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's accounts for the various sources of revenue established or referred to in this section;

(e) any federal or state money distributed to the county as payment in lieu of property taxation, including federal forest reserve funds allocated under the provisions of 17-3-213;

(f) gross proceeds taxes from coal under 15-23-703;

(g) net proceeds taxes for new production, production from horizontally completed wells, and incremental production, as defined in 15-23-601, and local government severance taxes on any other production occurring after December 31, 1988; and

(h) anticipated revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204."

Section 32. Section 20-9-333, MCA, is amended to read:

"**20-9-333. Basic special levy and other ~~revenues~~ revenue for county equalization of high school district BASE funding program.** (1) The county commissioners of each county shall levy an annual basic special tax for high schools of 22 mills on the dollar of the taxable value of all taxable property within the county, except for property subject to a tax or fee under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for the purposes of local and state BASE funding program support. The revenue

collected from this levy must be apportioned to the support of the BASE funding programs of high school districts in the county and to the state ~~special revenue~~ general fund~~, state equalization aid account,~~ in the following manner:

(a) In order to determine the amount of revenue raised by this levy that is retained by the county, the sum of the estimated revenue identified in subsection (2) must be subtracted from the sum of the county's high school tuition obligation and the total of the BASE funding programs of all high school districts of the county.

(b) If the basic levy and other revenue prescribed by this section produce more revenue than is required to repay a state advance for county equalization, the county treasurer shall remit the surplus funds to the state treasurer for deposit to the state ~~special revenue~~ general fund~~, state equalization aid account,~~ immediately upon occurrence of a surplus balance and each subsequent month thereafter, with any final remittance due no later than June 20 of the fiscal year for which the levy has been set.

(2) The revenue realized from the county's portion of the levy prescribed in this section and the revenue from the following sources must be used for the equalization of the high school BASE funding program of the county as prescribed in 20-9-335, and a separate accounting must be kept of the revenue by the county treasurer in accordance with 20-9-212(1):

(a) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's accounts for the various sources of revenue established in this section;

(b) any federal or state money distributed to the county as payment in lieu of property taxation, including federal forest reserve funds allocated under the provisions of 17-3-213;

(c) gross proceeds taxes from coal under 15-23-703;

(d) net proceeds taxes for new production, production from horizontally completed wells, and incremental production, as defined in 15-23-601, and local government severance taxes on any other production occurring after December 31, 1988; and

(e) anticipated revenue from property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204."

Section 33. Section 20-9-342, MCA, is amended to read:

"**20-9-342. Deposit of interest and income ~~moneys~~ money by state board of land commissioners.** The state board of land commissioners shall annually deposit the interest and income ~~moneys~~ money for

each calendar year into the state ~~special revenue~~ general fund for state equalization aid~~, provided for by 20-9-343,~~ by the last business day of February following the calendar year in which the ~~moneys were~~ money was received."

Section 34. Section 20-9-343, MCA, is amended to read:

"20-9-343. Definition of and revenue for state equalization aid. (1) As used in this title, the term "state equalization aid" means the account in the state special revenue fund that receives revenue as required in this section plus any legislative appropriation of money from other sources for:

(a) distribution to the public schools for the purposes of payment of systems development and other related costs resulting from the enactment of legislation that requires changes to the automated system used to administer the BASE funding program, guaranteed tax base aid, BASE aid, state reimbursement for school facilities, and matching funds for the systemic initiative for Montana mathematics and science grant;

(b) negotiated payments authorized under 20-7-420(3) up to $500,000 per biennium; and

(c) the Montana educational telecommunications network as provided in 20-32-101.

(2) The superintendent of public instruction may spend throughout the biennium funds appropriated ~~from the state equalization aid account as required~~ for the purposes of systems development and other related costs resulting from the enactment of legislation that requires changes to the automated system used to administer the BASE funding program, guaranteed tax base aid, BASE aid for the BASE funding program, state reimbursement for school facilities, negotiated payments authorized under 20-7-420(3), and the Montana educational telecommunications network~~, throughout the biennium, and for the biennium beginning July 1, 1993, equipment purchases that qualify as the state match for the systemic initiative for Montana mathematics and science grant~~.

(3) The following must be paid into the state ~~equalization aid account~~ general fund for the public schools of the state:

(a) ~~money allocated to state equalization from the collection of the severance tax on coal;~~

~~(b) money received from the treasurer of the United States as the state's shares of oil, gas, and other mineral royalties under the federal Mineral Lands Leasing Act, as amended;~~

~~(c)~~ interest and income money described in 20-9-341 and 20-9-342;

~~(d) money received from the state equalization aid levy under 20-9-360;~~

~~(e) income from the lottery, as provided in 23-7-402;~~

~~(f) the surplus revenues collected by the counties for BASE funding program support according to 20-9-331 and 20-9-333;~~ and

~~(g)~~(b) investment income earned by investing ~~money in the state equalization aid account in the state special revenue fund~~ interest and income money described in 20-9-341 and 20-9-342.

~~(4) The superintendent of public instruction shall request the board of investments to invest the money in the state equalization aid account to maximize investment earnings to the account.~~

~~(5) Any surplus revenue in the state equalization aid account at the end of a fiscal year must be transferred to the general fund.~~"

Section 35. Section 20-9-346, MCA, is amended to read:

"**20-9-346. Duties of superintendent of public instruction for state and county equalization aid distribution.** The superintendent of public instruction shall administer the distribution of the state and county equalization aid by:

(1) establishing the annual entitlement of each district and county to state and county equalization aid, based on the data reported in the retirement and general fund budgets for each district that have been duly adopted for the current school fiscal year and verified by the superintendent of public instruction;

(2) for the purposes of state reimbursements for school facilities, limiting the distribution ~~from the state equalization aid account to no more than $1 million for the school fiscal year ending June 30, 1994 and~~ to no more than $2 million for the biennium ending June 30, 1995, to the districts that are eligible under the provisions of 20-9-366 through 20-9-371 by:

(a) determining by May 1 of each school fiscal year the number of mills levied in each district for debt service on bonds that were issued as provided in 20-9-370(2)(b)(i) or (2)(b)(ii) and that qualify for guaranteed tax base aid under the provisions of 20-9-366 through 20-9-369 and 20-9-370;

(b) based on the limitation of state equalization aid available for debt service purposes in this subsection (2), determining the percentage of state equalization aid that each eligible district must receive for the school fiscal year;

(c) distributing that amount to each eligible district for reducing the property tax for the debt service fund for the ensuing school fiscal year; and

(d) at the end of the school fiscal year ending June 30, 1994, determining whether there is a

unused portion of the amount of state equalization aid appropriated in this subsection (2) to be carried into the next school fiscal year for the purposes of this subsection (2).

(3) distributing by electronic transfer the BASE aid and state advances for county equalization, for each district or county entitled to the aid, to the county treasurer of the respective county for county equalization or to the county treasurer of the county where the district is located for BASE aid, in accordance with the distribution ordered by the board of public education;

(4) keeping a record of the full and complete data concerning money available for state equalization aid, state advances for county equalization, and the entitlements for BASE aid of the districts of the state;

(5) reporting to the board of public education the estimated amount that will be available for state equalization aid; and

(6) reporting to the office of budget and program planning as provided in 17-7-111:

(a) the figures and data available concerning distributions of state and county equalization aid during the preceding 2 school fiscal years;

(b) the amount of state equalization aid then available;

(c) the apportionment made of the available money but not yet distributed;

(d) the latest estimate of accruals of money available for state equalization aid; and

(e) the amount of state advances and repayment for county equalization."

Section 36. Section 20-9-360, MCA, is amended to read:

"**20-9-360. State equalization aid levy.** (1) There is a levy of 40 mills imposed by the county commissioners of each county on all taxable property within the state, except property for which a tax or fee is required under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204. Except as provided in subsection (2), proceeds of the levy must be remitted to the state treasurer and must be deposited to the credit of the state ~~special revenue~~ general fund for state equalization aid to the public schools of Montana.

(2) For the benefit of each municipality that created an urban renewal area and adopted a tax increment financing provision for the urban renewal area prior to July 1, 1990, the state treasurer shall distribute each fiscal year from the state equalization aid levy to the municipality the amount, if any, equal to the product of the incremental taxable value of the urban renewal area times the reduced school levy for the area, each calculated for the fiscal year. The reduced school levy for a fiscal year is the difference

between the aggregate amount of all property tax levies for school purposes in the urban renewal area, expressed in mills, in the fiscal year ended June 30, 1989, and the aggregate amount of all property tax levies for school purposes in the area or the district, expressed in mills, in the fiscal year, including the state equalization aid levy. The state treasurer shall distribute the amounts to municipalities in two equal installments on December 31 and June 30 of the fiscal year."

Section 37. Section 20-9-361, MCA, is amended to read:

"**20-9-361. State and county equalization revenue -- statutory appropriation.** (1) Revenue received in support of ~~state and~~ county equalization under the provisions of 20-9-331~~,~~ and 20-9-333~~, and 20-9-343~~ is statutorily appropriated, as provided in 17-7-502, to~~:~~

~~(1)~~ the superintendent of public instruction to be used for county equalization ~~and state equalization~~ aid for the public schools, as provided by law, and must be accounted for in accordance with generally accepted accounting principles~~; and~~.

(2) Revenue received from the state equalization aid levy for a municipality that created an urban renewal area and adopted a tax increment financing provision for the urban renewal area prior to July 1, 1990, is statutorily appropriated, as provided in 17-7-502, to ~~counties~~ be distributed as provided in 20-9-360(2)."

Section 38. Section 23-2-507, MCA, is amended to read:

"**23-2-507. Penalty.** (1) Violations of any section of this part, except 23-2-526(3), unless otherwise specified ~~shall be~~ are a misdemeanor and shall be punishable by a fine of not less than $15 or more than $500 or ~~by~~ imprisonment up to 6 months, or ~~by~~ both ~~such fine and imprisonment~~. All fine and bond forfeitures, except those paid to a justice's court, ~~shall~~ must be transmitted to the state treasurer, who shall deposit ~~such~~ the fines and forfeitures in the ~~motorboat account of a special revenue~~ general fund. The ~~moneys shall be used only by the~~ department may use appropriations for enforcement of this part~~, as amended~~.

(2) If 23-2-525(4) is violated, 46-18-241 through 46-18-249 apply, except that the sentencing court shall order restitution and shall do so regardless of the court's disposition of the violator."

Section 39. Section 23-2-644, MCA, is amended to read:

"**23-2-644. Use of funds from fines and forfeitures.** All fines and forfeitures collected under 23-2-601 through 23-2-644 relating to snowmobiles, except those collected by a justice's court, ~~shall~~ must be transmitted to the state treasurer, who shall deposit ~~such~~ the fines and forfeitures in the state ~~special revenue~~ general fund. ~~to the credit of the~~ The department ~~to be used only~~ may use appropriations for snowmobile safety and education."

Section 40. Section 23-2-807, MCA, is amended to read:

"**23-2-807. Penalty -- disposition.** (1) The failure to display a current decal indicating that the fee in lieu of tax, registration fees, decal fees, and, when applicable, taxes on licensed vehicles have been paid on the off-highway vehicle for the current year as provided in 23-2-804 is a misdemeanor punishable by a fine of $50.

(2) All fines collected under this section must be transmitted to the state treasurer, who shall deposit the money in the ~~account created under 23-2-804(3)~~ state general fund. ~~Fifty percent of this money and the interest earned on it must be used for off-highway vehicle safety and education. The remaining 50% of the money and the interest earned on it must be used for enforcement.~~"

Section 41. Section 23-2-823, MCA, is amended to read:

"**23-2-823. Off-highway vehicle safety education training program ~~—appropriation~~.** (1) There is an off-highway vehicle safety education training program. ~~Beginning October 1, 1994, the~~ The department of fish, wildlife, and parks shall coordinate the program as funds are available.

(2) ~~Beginning October 1, 1994, the~~ The department of justice shall transfer to the department of fish, wildlife, and parks all money available for the program under 23 U.S.C. 402.

(3) There is an account in the federal special revenue fund in which all money received for the administration of the off-highway vehicle safety education training program must be deposited. ~~The money in the account is statutorily appropriated, as provided in 17-7-502, to the department of fish, wildlife, and parks for the administration of the program.~~"

Section 42. Section 23-4-202, MCA, is amended to read:

"**23-4-202. Penalty for violations of law -- authority of board -- judicial review.** (1) A person holding a race meet or an owner, trainer, or jockey participating in a race meet, without first being licensed

under this chapter, ~~and~~ or a person violating this chapter is guilty of a misdemeanor.

(2) The board or, upon the board's authorization, the board of stewards of a race meet at which they officiate may exclude from racecourses in this state a person whom the board considers detrimental to the best interest of racing as defined by rules of the board.

(3) As its own formal act or through an act of a board of stewards of a race meet, the board may suspend or revoke any license issued by the department to a licensee and assess a fine, not to exceed $1,000, against a licensee who violates any of the provisions of this chapter or any rule or order of the board. In addition to the suspension or revocation and fine, the board may forbid application for relicensure for a 2-year period. Fines collected under this subsection must be deposited in the general fund.

(4) The board shall promulgate rules implementing this chapter, including the right to a hearing for individuals against whom action is taken or proposed ~~herein~~ under this chapter. The rules may include provisions for the following:

(a) summary imposition of penalty by the stewards of a race meet, including a fine and license suspension, subject to review under the contested case provisions of the Montana Administrative Procedure Act;

(b) stay of a summary imposition of penalty by either the board or board of stewards;

(c) retention of purses pending final disposition of complaints, protests, or appeals of stewards' rulings;

(d) setting aside of up to 2% of exotic wagering on races, including simulcast races, to be used as a bonus for owners pursuant to 23-4-304(2)~~, and up~~. Up to 30% of the amount set aside may be used to defray administrative costs ~~which shall be~~ in addition to the 20% already withheld under 23-4-302;

(e) using 2% of exotic wagering on live racing to be immediately and equally distributed to all purses except stakes races;

(f) assessment of penalty and interest on the late payment of fines, which must be paid before licenses are reinstated;

(g) definition of exotic forms of wagering on races to be allowed;

(h) standards for simulcast facilities; and

(i) conduct and supervision of simulcast races and parimutuel betting or wagering on simulcast races.

(5) The district court of the first judicial district of the state has exclusive jurisdiction for judicial

review of cases arising under this chapter."

Section 43. Section 23-7-202, MCA, is amended to read:

"**23-7-202. Powers and duties of commission.** The commission shall:

(1) establish and operate a state lottery and may not become involved in any other gambling or gaming;

(2) determine policies for the operation of the state lottery, supervise the director and ~~his~~ the staff, and meet with the director at least once every 3 months to make and consider recommendations, set policies, determine types and forms of lottery games to be operated by the state lottery, and transact other necessary business;

(3) maximize the net revenue paid to the ~~superintendent of public instruction~~ state and to the board of crime control under 23-7-402 and ensure that all policies and rules adopted further revenue maximization;

(4) subject to 23-7-402(1), determine the percentage of the money paid for tickets or chances to be paid out as prizes;

(5) determine the price of each ticket or chance and the number and size of prizes;

(6) provide for the conduct of drawings of winners of lottery games;

(7) carry out, with the director, a continuing study of the state lotteries of Montana and other states to make the state lottery more efficient, profitable, and secure from violations of the law;

(8) study and may enter into agreements with other lottery states to offer lottery games;

(9) prepare quarterly and annual reports on all aspects of the operation of the state lottery, including but not limited to types of games, gross revenue, prize money paid, operating expenses, net revenue to the state, contracts with gaming suppliers, and recommendations for changes to this part, and deliver a copy of each report to the governor, the department of administration, the legislative auditor, the president of the senate, the speaker of the house of representatives, and each member of the appropriate committee of each house of the legislature as determined by the president of the senate and the speaker of the house; and

(10) adopt rules relating to lottery staff sales incentives or bonuses and sales agents' commissions and any other rules necessary to carry out this part."

Section 44. Section 23-7-402, MCA, is amended to read:

"**23-7-402. Disposition of revenue.** (1) A minimum of 45% of the money paid for tickets or chances must be paid out as prize money. The prize money is statutorily appropriated, as provided in 17-7-502, to the lottery.

(2) Commissions paid to lottery ticket or chance sales agents are not a state lottery operating expense.

(3) That part of all gross revenue not used for the payment of prizes, commissions, and operating expenses, together with the interest earned on the gross revenue while the gross revenue is in the enterprise fund, is net revenue. Except for the amount required to be paid under subsection (5), net revenue must be ~~paid~~ transferred quarterly from the enterprise fund established by 23-7-401 to the ~~superintendent of public instruction~~ state general fund for distribution as state equalization aid to the public schools of Montana ~~as provided in 20-9-343~~. ~~The net revenue is statutorily appropriated, as provided in 17-7-502, to the superintendent of public instruction.~~

(4) The spending authority of the lottery may be increased in accordance with this section upon review and approval of a revised operation plan by the ~~budget~~ office of budget and program planning.

(5) (a) An amount equal to 9.1% of the net revenue derived under subsection (3), but not to exceed $1 million in any fiscal year, must be paid to the board of crime control.

(b) All money paid to the board of crime control under this subsection (5) must be used to fund state grants to counties for youth detention services and to cover the costs of administering the grant program as authorized in 41-5-1002. The grants are statutorily appropriated, as provided in 17-7-502, to the board of crime control. The costs of administering the grant program must be paid pursuant to a legislative appropriation."

Section 45. Section 27-12-206, MCA, is amended to read:

"**27-12-206. Funding.** (1) There is an account in the state special revenue fund. Money from the assessments levied under this section must be deposited in the account. ~~The money in the account is statutorily appropriated, as provided in 17-7-502, to the director to be used to administer this chapter.~~

(2) For each fiscal year, beginning July 1, an annual assessment is levied on all chiropractic physicians. The amount of the assessment must be annually set by the director and equally assessed against all chiropractic physicians. A fund surplus at the end of a fiscal year, not required for the

administration of this chapter, must be retained ~~by the director~~ in the account and used to finance the administration of this chapter during the next fiscal year, in which event the director shall reduce the next annual assessment to an amount estimated to be necessary for the proper administration of this chapter during that fiscal year.

(3) The annual assessment must be paid on or before the date the chiropractic physician's annual renewal fee under 37-12-307 is due. An unpaid assessment bears a late charge fee of $25. The late charge fee is part of the annual assessment. The director has the same powers and duties in connection with the collection of and failure to pay the annual assessment as the department of commerce has under 37-12-307 with regard to a chiropractic physician's annual license fee."

Section 46. Section 39-71-2501, MCA, is amended to read:

"39-71-2501. Definitions. As used in this part, the following definitions apply:

(1) "Account" means the workers' compensation bond repayment account established in 39-71-2504.

~~(1)~~(2) "Department" means the department of revenue provided for in 2-15-1301.

~~(2)~~(3) "Employee" includes an officer, employee, or elected public official of the United States, the state of Montana, or any political subdivision of the United States or the state of Montana or any agency or instrumentality of the United States, the state of Montana, or a political subdivision of the United States or the state of Montana. The term "employee" also includes an officer of a corporation.

~~(3)~~(4) (a) "Employer" means, except as provided in subsection ~~(3)(b)~~ (4)(b), the person for whom an individual performs or performed any service, of whatever nature, as an employee of the person.

(b) If the person for whom the individual performs or performed the service does not have control of the payment of the wages for the service, the term employer means the person who has control of the payment of wages.

~~(4)~~(5) "Employer's payroll" means wages paid for each of the calendar quarters ending March 31, June 30, September 30, and December 31.

~~(5)~~(6) "State fund" means the state compensation insurance fund.

~~(6)~~(7) "Tax" means the workers' compensation old fund liability tax provided for in 39-71-2503, created to address the unfunded liability for claims for injuries resulting from accidents that occurred before July 1, 1990.

~~(7) "Tax account" means the workers' compensation tax account created by 39-71-2504.~~

(8) "Wages" means all remuneration for services performed by an employee for an employer, including the cash value of all remuneration paid in any medium other than cash. The term does not include remuneration paid:

(a) for casual labor not in the course of the employer's trade or business performed in any calendar quarter by an employee unless the cash remuneration paid for the service is $50 or more and the service is performed by an individual who is regularly employed by the employer to perform the service. For purposes of this subsection (8)(a), an individual is considered to be regularly employed by an employer during a calendar quarter only if:

(i) on each of 24 days during the calendar quarter, the individual performs service not in the course of the employer's trade or business for the employer for some portion of the day; and

(ii) the individual was regularly employed, as determined under subsection (8)(a)(i), by the employer in the performance of service during the preceding calendar quarter;

(b) for services not in the course of the employer's trade or business, to the extent that remuneration is paid in any medium other than cash, when the payments are in the form of lodging or meals and the payments are received by the employee at the request of and for the convenience of the employer;

(c) to or for an employee as a payment for or a contribution toward the cost of any group plan or program that benefits the employee, including but not limited to life insurance, hospitalization insurance for the employee or the employee's dependents, and employees' club activities;

(d) as wages or compensation, the taxation of which is prohibited by federal law."

Section 47. Section 39-71-2503, MCA, is amended to read:

"39-71-2503. Workers' compensation old fund liability tax. (1) (a) There is imposed on each employer a workers' compensation old fund liability tax in an amount equal to 0.28%, plus the additional amount of old fund liability tax provided in 39-71-2505, of the employer's payroll in the preceding calendar quarter, except that if an employer is subject to 15-30-204(2), the tax is an amount equal to 0.28%, plus the additional amount of old fund liability tax provided in 39-71-2505, of the employer's payroll in the preceding week.

(b) There is imposed on each employee, except workers engaged in the rail industry who are under the jurisdiction of the federal railroad administration, United States department of transportation, an old

fund liability tax, as provided in 39-71-2505, on the employee's wages in the preceding calendar quarter.

(c) There is imposed on each business of a sole proprietor, on each subchapter S. corporation shareholder, on each partner of a partnership, and on each member or manager of a limited liability company a workers' compensation old fund liability tax, as provided in 39-71-2505, on the profit of each separate business of a sole proprietor and on the distributive share of ordinary income of each shareholder, partner, or member or manager.

(d) A corporate officer of a subchapter S. corporation who receives wages as an employee of the corporation shall pay the old fund liability tax on both the wages and any distributive share of ordinary income at the employee rate. The subchapter S. corporation is not liable for the tax on the corporate officer's wages.

(e) A corporate officer of a closely held corporation who meets the stock ownership test under section 542(a)(2) of the Internal Revenue Code and receives wages as an employee of the corporation is required to pay the old fund liability tax only on the wages received. The corporation is not liable for the tax on the corporate officer's wages.

(f) This old fund liability tax must be used to reduce the unfunded liability in the state fund incurred for claims for injuries resulting from accidents that occurred before July 1, 1990. If one or more loans or bonds are outstanding, the legislature may not reduce the security for repayment of the outstanding loans or bonds, except that the legislature may forgive payment of a tax or reduce a tax rate for any 12-month period if the workers' compensation bond repayment account contains on the first day of that period an amount, regardless of the source, that is in excess of the reserve maintained in the account and that is equal to the amount needed to pay and is dedicated to the payment of the principal, premium, and interest that must be paid during that period on the outstanding loans or bonds.

(g) Each employer shall maintain the records the department requires concerning the old fund liability tax. The records are subject to inspection by the department and its employees and agents during regular business hours.

(h) An employee does not have any right of action against an employer for any money deducted and withheld from the employee's wages and paid to the state in compliance or intended compliance with this section.

(i) The employer is liable to the state for any amount of old fund liability taxes, plus interest and penalty, when the employer fails to withhold from an employee's wages or fails to remit to the state the

old fund liability tax required by this section.

(j) A sole proprietor, subchapter S. corporation shareholder, partner of a partnership, or member or manager of a limited liability company is liable to the state for the old fund liability tax, plus interest and penalty, when the sole proprietor, shareholder, partner, or member or manager fails to remit to the state the old fund liability tax required by this section.

(2) All collections of the tax must be deposited as received in the ~~tax~~ account. The tax is in addition to any other tax or fee assessed against persons subject to the tax.

(3) (a) On or before the last day of April, July, October, and January, each employer subject to the tax shall file a return in the form and containing the information required by the department and, except as provided in subsection (3)(b), pay the amount of tax required by this section to be paid on the employer's payroll for the preceding calendar quarter ~~and in addition~~. The employer shall also remit withholdings for employees' old fund liability taxes at the same time.

(b) An employer subject to 15-30-204(2) shall remit to the department a weekly payment with its weekly withholding tax payment in the amount required by subsection (1)(a) and shall remit withholdings for employees' old fund liability taxes at the same time.

(c) Tax payments required by subsections (1)(a) and (1)(b) must be made with the return filed pursuant to 15-30-204. The department shall first credit a payment to the liability under 15-30-202 and credit any remainder to the workers' compensation tax account provided in 39-71-2504.

(d) Tax payments due from sole proprietors, subchapter S. corporation shareholders, partners of partnerships, and members or managers of limited liability companies must be made with and at the same time as the returns filed pursuant to 15-30-144 and 15-30-241. The department shall first credit a payment to the liability under 15-30-103 or 15-30-202 and shall then credit any remainder to the ~~workers' compensation tax~~ account provided for in 39-71-2504.

(4) An employer's officer or employee with the duty to collect, account for, and pay to the department the amounts due under this section who fails to pay an amount is liable to the state for the unpaid amount and any penalty and interest relating to that amount.

(5) Returns and remittances under subsection (3) and any information obtained by the department during an audit are subject to the provisions of 15-30-303, but the department may disclose the information to the department of labor and industry under circumstances and conditions that ensure the continued confidentiality of the information.

(6) The department of labor and industry and the state fund shall~~, on July 1, 1991, or as soon after that date as possible,~~ give the department a list of all employers having coverage under any plan administered or regulated by the department of labor and industry and the state fund. After the lists have been given to the department, the department of labor and industry and the state fund shall update the lists weekly. The department of labor and industry and the state fund shall provide the department with access to their computer data bases and paper files and records for the purpose of the department's administration of the tax imposed by this section.

(7) The provisions of Title 15, chapter 30, that are not in conflict with the provisions of this part regarding administration, remedies, enforcement, collections, hearings, interest, deficiency assessments, credits for overpayment, statute of limitations, penalties, estimated taxes, and department rulemaking authority apply to the tax, to employers, to employees, to sole proprietors, to subchapter S. corporation shareholders, to partners of partnerships, to members or managers of limited liability companies, and to the department."

Section 48. Section 39-71-2504, MCA, is amended to read:

"**39-71-2504. Workers' compensation ~~tax~~ bond repayment account.** (1) There is a workers' compensation ~~tax~~ bond repayment account in the state special revenue fund. ~~The workers' compensation tax account consists of a tax account and a workers' compensation bond repayment account.~~

(2) All collections of the tax imposed under 39-71-2503~~,~~ and the interest and penalties on the tax~~,~~ ~~and revenue appropriated to the workers' compensation tax account under section 11, Chapter 9, Special Laws of June 1989,~~ must, in accordance with the provisions of 15-1-501(6), be deposited in the workers' compensation ~~tax~~ bond repayment account. All money deposited in the ~~workers' compensation tax account must be credited to the~~ workers' compensation bond repayment account must be retained in the account to the extent necessary to pay the principal of and the redemption premium and interest due on workers' compensation bonds issued under 39-71-2354 and 39-71-2355 and to establish and maintain a reserve for the bonds equal to the maximum annual principal of and interest on the bonds in any future year. The balance in the workers' compensation bond repayment account ~~must be credited to the tax account within the workers' compensation tax account and~~ is statutorily appropriated, as provided in 17-7-502, to the state fund to be used to reduce the unfunded liability in the state fund incurred for claims for injuries resulting from accidents that occurred before July 1, 1990."

Section 49. Section 44-12-206, MCA, is amended to read:

"**44-12-206. Disposition of proceeds of sale -- report.** (1) Whenever property is seized, forfeited, and sold under the provisions of this chapter, the net proceeds of the sale must be distributed as follows:

(a) to the holders of security interests who have presented proper proof of their claims, if any, up to the amount of their interests in the property;

(b) the remainder, if any, to the county treasurer of the county in which the property was seized, ~~who~~. The county treasurer shall establish and maintain a drug forfeiture account and deposit the remainder into the account, except as provided in subsections (1)(c) through (1)(e)~~;~~.

(c) if the property was seized within the corporate limits of a city or town by a law enforcement agency of that city or town, the remainder, if any, to the city or town treasurer~~, who~~. The city or town treasurer shall establish and maintain a drug forfeiture account and deposit the remainder into the account, except as provided in subsections (1)(d) and (1)(e)~~;~~.

(d) if the property was seized by an employee of the state, the remainder, if any, to the ~~account established in subsection (3)~~ state general fund, except as provided in subsection (1)(e); and

(e) if the property was seized as a result of the efforts of more than one law enforcement agency, the remainder, if any, to the accounts required by this subsection (1), pro rata in the proportions represented by the agencies' expenses of investigation, as determined by the attorney general.

(2) All proceeds from any source that are deposited into a county, city, or town drug forfeiture account must in each fiscal year be appropriated to and remain available until expended by the confiscating agency for drug laws enforcement and education concerning drugs.

~~(3) Net proceeds received by the state under subsections (1)(d) and (1)(e) must be deposited in an account in the state special revenue fund to the credit of the department of justice. The department may expend the money in the account only for purposes of enforcement of drug laws. An amount up to $125,000 each year is statutorily appropriated, as provided in 17-7-502, to the attorney general for enforcement of drug laws. Any expenditure in excess of $125,000 each fiscal year requires approval through budget amendment, as provided in Title 17, chapter 7, part 4.~~

~~(4)~~(3) The attorney general shall provide the legislative finance committee and the legislative auditor with a detailed, written report of the amounts and property credited to the ~~account~~ general fund no later than 4 months after the end of each fiscal year. The attorney general may not disclose any information that would compromise any investigation or prosecution."

Section 50. Section 46-18-235, MCA, is amended to read:

"**46-18-235. Disposition of money collected as fines and costs.** The money collected by a court as a result of the imposition of fines or assessment of costs under the provisions of 46-18-231 and 46-18-232 ~~shall~~ must be paid:

(1) by a district court to the county general fund of the county in which the court is held, except that:

(a) if the costs assessed include any district court expense listed in 3-5-901, the money collected from assessment of these costs must be paid to the state for deposit into the state general fund to the extent that the expenses were paid by the state; and

(b) if the fine was imposed for a violation of Title 45, chapter 9 or 10, the court may order the money paid into the drug forfeiture account maintained under 44-12-206 for the law enforcement agency ~~which~~ that made the arrest from which the conviction and fine arose; and

~~(c) if the fine was imposed for a violation of 45-5-206, 50% of the amount collected must be deposited in the state special revenue fund for use of the department of family services in the battered spouses and domestic violence grant program created by 52-6-101; and~~

(2) by a justice's court pursuant to 3-10-601."

Section 51. Section 52-6-105, MCA, is amended to read:

"**52-6-105. Funding.** (1) Revenue from the marriage license fee~~,~~ and the fee collected for filing a declaration of marriage without solemnization~~, and the portion of fines allocated to this program by 46-18-235~~ is the primary source of funding for the battered spouses and domestic violence program. The disposition of the marriage license fee is as established in 25-1-201.

(2) Twenty percent of the operational costs of a battered spouses and domestic violence program must come from the local community served by the program. The local contribution may include in-kind contributions."

Section 52. Section 61-2-107, MCA, is amended to read:

"**61-2-107. License reinstatement fee to fund county drinking and driving prevention programs.** (1) Notwithstanding the provisions of any other law of the state, a driver's license that has been suspended or revoked under 61-5-205 or 61-8-402 must remain suspended or revoked until the driver has

paid to the department a fee of $100 in addition to any other fines, forfeitures, and penalties assessed as a result of conviction for a violation of the traffic laws of the state.

(2) ~~(a)~~ The department shall deposit the fees collected under subsection (1) in the general fund. One-half of the fees must be appropriated and used for funding county drinking and driving prevention programs as provided in 61-2-108. ~~For each fiscal year, an amount up to $50,000 of the money from the fees remaining in the general fund after appropriation for those programs is statutorily appropriated, as provided in 17-7-502, to the department to purchase and maintain equipment used to analyze breath for the presence of alcohol.~~

~~(b) On or before June 30, 1994, the department shall transfer to the general fund the balance of the driver's license reinstatement fee state special revenue account.~~"

Section 53. Section 61-3-502, MCA, is amended to read:

"**61-3-502. Sales tax on new motor vehicles -- exemptions.** (1) In consideration of the right to use the highways of the state, there is imposed a tax upon all sales of new motor vehicles, excluding trailers, semitrailers, and housetrailers, for which a license is sought and an original application for title is made. The tax must be paid by the purchaser when the purchaser applies for an original Montana license through the county treasurer. For purposes of this section, "new motor vehicle" means a new motor vehicle for which original registration is sought or a motor vehicle previously furnished without charge by a dealer to a school district for use in a state-approved traffic education program, whether or not titled by the dealer or the school district, and for which original registration is sought.

(2) Except as provided in subsections (4) and (5), the sales tax is:

(a) 1½% of the f.o.b. factory list price or f.o.b. port-of-entry list price, during the first quarter of the year or for a registration period other than a calendar year or calendar quarter;

(b) 1 1/8% of the list price during the second quarter of the year;

(c) 3/4 of 1% during the third quarter of the year;

(d) 3/8 of 1% during the fourth quarter of the year.

(3) If the manufacturer or importer fails to furnish the f.o.b. factory list price or f.o.b. port-of-entry list price, the department may use published price lists.

(4) The new car sales tax on vehicles subject to the provisions of 61-3-313 through 61-3-316 is 1½% of the f.o.b. factory list price or f.o.b. port-of-entry list price regardless of the month in which the

new vehicle is purchased.

(5) The sales tax on new motor vehicles registered as part of a fleet under 61-3-318 is 3/4 of 1% of the f.o.b. factory list price or f.o.b. port-of-entry list price.

(6) The proceeds from this tax must be remitted to the state treasurer every 30 days for credit to the ~~state~~ highway nonrestricted account of the state special revenue fund. The county treasurer shall retain 5% of the taxes collected to pay for the cost of administration.

(7) The new vehicle is not subject to any other assessment, fee in lieu of tax, or tax during the calendar year in which the original application for title is made.

(8) ~~(a) The applicant for original registration of any new and unused motor vehicle, or a new motor vehicle furnished without charge by a dealer to a school district for use as a traffic education motor vehicle by a school district operating a state-approved traffic education program within the state, whether or not previously licensed or titled to the school district (except a mobile home as defined in 15-1-101(1)), acquired by original contract after January 1 of any year, is required, whenever the vehicle has not been otherwise assessed, to pay the motor vehicle sales tax provided by this section irrespective of whether the vehicle was in the state of Montana on January 1 of the year.~~

~~(b)~~ A motor vehicle may not be registered or licensed ~~under the provisions of this subsection~~ unless the application for registration is accompanied by a statement of origin ~~to be~~ that is furnished by the dealer selling the vehicle~~, showing~~ and that shows that the vehicle has not previously been registered or owned, except as otherwise provided in this section, by any person, firm, corporation, or association ~~that is not~~ other than a new motor vehicle dealer holding a franchise or distribution agreement from a new car manufacturer, distributor, or importer.

(9) (a) Motor vehicles operating exclusively for transportation of persons for hire within the limits of incorporated cities or towns and within 15 miles from the limits are exempt from the provisions of subsection (1).

(b) Motor vehicles brought or driven into Montana by a nonresident, migratory, bona fide agricultural worker temporarily employed in agricultural work in this state ~~where~~ when those motor vehicles are used exclusively for transportation of agricultural workers are also exempt from the provisions of subsection (1).

(c) Vehicles lawfully displaying a licensed dealer's plate as provided in 61-4-103 are exempt from the provisions of subsection (1):

(i) when moving to or from a dealer's place of business when unloaded or loaded with dealer's property only~~;~~ and

(ii) in the case of vehicles having a gross loaded weight of less than 24,000 pounds, while being demonstrated in the course of the dealer's business."

Section 54. Section 61-4-112, MCA, is amended to read:

"**61-4-112. New motor vehicles -- transfers by dealers.** (1) When a motor vehicle dealer transfers a new motor vehicle to a purchaser or other recipient, the dealer shall:

(a) issue and affix a sticker as prescribed in 61-4-111(1)(a) for transfers of used motor vehicles and retain a copy of the sticker;

(b) within 4 working days following the date of delivery of the new motor vehicle, forward to the county treasurer of the county where the purchaser or recipient resides:

(i) one copy of the sticker issued under subsection (1)(a);

(ii) an application for certificate of title with a notice of security interest, if any, executed by the purchaser or recipient; and

(iii) a statement of origin as prescribed in 61-3-502(8)~~(b)~~.

(2) Upon receipt from the county treasurer of the documents required under subsection (1), the department shall issue a certificate of ownership and certificate of registration together with a statement of lien as provided in 61-3-202."

Section 55. Section 61-8-204, MCA, is amended to read:

"**61-8-204. Reward for information on injury to or removal of sign or marker.** Upon conviction under the provisions of 61-8-713, ~~any~~ a person who furnishes information to law enforcement officers leading to the arrest and conviction of the accused person ~~shall~~ must be paid a reward from the ~~state~~ highway nonrestricted account in the state special revenue fund in the sum of $100."

Section 56. Section 61-10-126, MCA, is amended to read:

"**61-10-126. Deposit of fees.** All fees collected under 61-10-101 through 61-10-125 ~~shall~~ must be forwarded to the state treasurer for deposit in the ~~state~~ highway nonrestricted account in the state special revenue fund."

Section 57. Section 61-10-148, MCA, is amended to read:

"**61-10-148. Disposition of fines and forfeited bonds.** (1) Except as provided in 61-12-701 and subsection (2) of this section, one-half of all the money collected as fines and forfeited bonds for violations of Title 61, chapter 10, must be remitted monthly by the county treasurer to the state treasurer for deposit in the ~~state~~ highway nonrestricted account in the state special revenue fund. The remaining half, less the deductions required by law, must be deposited in the county road fund. This subsection does not apply to fines and forfeited bonds paid to justices' courts.

(2) If the apprehension or arrest was for a violation of Title 61, chapter 10, and if the offense occurred on a road or highway not included under the provisions of 60-2-128 and 60-2-203, all money collected as fines and forfeited bonds must be distributed to the county treasurer for deposit in the county road fund."

Section 58. Section 61-10-225, MCA, is amended to read:

"**61-10-225. Disposition of fees collected by county treasurer.** At the time of collecting the fees provided for in 61-10-222, each county treasurer shall retain 5% of the fees ~~collected by him~~ for the cost of administration and for deposit in the general fund of the county. The remaining 95% ~~shall~~ must be remitted monthly to the state treasurer for deposit to the credit of the department of transportation in the highway revenue account. The remittance ~~shall~~ must be made on forms furnished to the county treasurer by the department."

Section 59. Section 61-10-226, MCA, is amended to read:

"**61-10-226. Deposit of state highway money.** (1) ~~Any reference to the state highway fund means the state highway account in the state special revenue fund.~~

~~(2)~~ Money received for the use of the department from the receipt or transfer of GVW license fees, as provided by law, or from other state sources ~~shall~~ must be deposited in the highway revenue account in the state special revenue fund to the credit of the department.

~~(3)~~(2) Money received from the federal government or other agencies ~~shall~~ must be deposited in a federal or state special revenue fund to the credit of the department.

~~(4)~~(3) Money collected for the department as authorized by law ~~shall~~ must be credited to ~~such~~ the appropriate fund ~~or funds~~ by the state treasurer.

~~(5)~~(4) Money received from the counties ~~shall~~ must be deposited in the appropriate account in the state special revenue fund to the credit of the department."

Section 60. Section 75-5-634, MCA, is amended to read:

"75-5-634. Disposition of fines and civil penalties. ~~(1) Except as provided in subsections (2) and (3), fines~~ Fines and civil penalties collected under this chapter, except those collected in a justice's court, must be deposited into the ~~water quality rehabilitation account provided in 75-5-507~~ state general fund.

~~(2) A maximum of $20,000 in fines and civil penalties may be deposited in the water quality rehabilitation account in any fiscal year. Fines and penalties in excess of $20,000 must be deposited in the general fund.~~

~~(3) Whenever the amount of money in the water quality rehabilitation account exceeds $100,000, all subsequent fines and civil penalties must be deposited in the general fund.~~"

Section 61. Section 75-5-635, MCA, is amended to read:

"75-5-635. Costs and expenses -- recovery by department ~~-- deposit in water quality rehabilitation account~~. (1) In a civil action initiated by the department under this chapter, the department may ask for and the court is authorized to assess a violator for the cost of the investigation or monitoring survey ~~which~~ that led to the establishment of the violation and any expense incurred by the state in removing, correcting, or terminating any of the adverse effects upon water quality resulting from the unauthorized discharge of pollutants.

(2) Any costs and expenses recovered by the department under the provisions of subsection (1) ~~for actions that the department financed with money from the water quality rehabilitation account authorized in 75-5-507~~ must be deposited in the ~~water quality rehabilitation account~~ state general fund."

Section 62. Section 75-6-109, MCA, is amended to read:

"75-6-109. Administrative enforcement. (1) If the department believes that a violation of this part, a rule adopted under this part, or a condition of approval issued under this part has occurred, it may serve written notice of the violation, by certified mail, on the alleged violator or ~~his~~ the violator's agent. The notice must specify the provision of this part, the rule, or the condition of approval alleged to have been violated and the facts alleged to constitute a violation. The notice must include an order to take necessary

corrective action within a reasonable period of time~~, which~~. The time period must be stated in the order. Service by mail is complete on the date of filing.

(2) If the alleged violator does not request a hearing before the board within 30 days of the date of service, the order becomes final. Failure to comply with a final order may subject the violator to an action commenced pursuant to 75-6-104, 75-6-113, or 75-6-114.

(3) If the alleged violator requests a hearing before the board within 30 days of the date of service, the board shall schedule a hearing. After the hearing is held, the board may:

(a) affirm or modify the department's order issued under subsection (1) if the board finds that a violation has occurred; or

(b) rescind the department's order if the board finds that a violation has not occurred.

(4) An order issued by the department or the board may set a date by which the violation must cease and set a time limit for action to correct a violation.

(5) As an alternative to issuing an order pursuant to subsection (1), the department may:

(a) require the alleged violator to appear before the board for a hearing, at a time and place specified in the notice, to answer the charges complained of; or

(b) initiate an action under 75-6-111(2), 75-6-113, or 75-6-114.

(6) An action initiated under this part may include an administrative penalty not to exceed $500 for each day of violation. Administrative penalties collected under this section must be deposited in the ~~public drinking water special revenue~~ state general fund ~~established in 75-6-115~~.

(7) The contested case provisions of the Montana Administrative Procedure Act, provided for in Title 2, chapter 4, part 6, apply to a hearing under 75-6-108 or this section."

Section 63. Section 75-6-114, MCA, is amended to read:

"**75-6-114. Civil penalty.** (1) A person who violates this part or a rule, order, or condition of approval issued under this part is subject to a civil penalty not to exceed $10,000.

(2) Each day of violation constitutes a separate violation.

(3) Action under this section does not bar enforcement of this part or a rule, order, or condition of approval issued under this part by injunction or other appropriate remedy.

(4) Civil penalties collected pursuant to this section must be deposited in the ~~public drinking water special revenue~~ state general fund ~~established in 75-6-115~~."

Section 64. Section 75-6-115, MCA, is amended to read:

"**75-6-115. Public drinking water special revenue fund.** (1) There is a public drinking water special revenue fund within the state special revenue fund established in 17-2-102. ~~There are established in the public drinking water special revenue fund an operator training account and a public drinking water program account.~~

(2) There must be credited to~~:~~

~~(a) the operator training account all administrative and civil penalties collected under 75-6-109 and 75-6-114; and~~

~~(b)~~ the public drinking water ~~program account revenues~~ special revenue fund the revenue from fees assessed, collected, and allocated pursuant to 75-6-108.

~~(3) Funds from the operator training account may be used only to finance public water supply system and public sewage system operator training programs.~~

~~(4)~~ Funds from the public drinking water ~~program account~~ special revenue fund may be used only to pay department costs in implementing the public drinking water supply program, as described in this part."

Section 65. Section 76-15-530, MCA, is amended to read:

"**76-15-530. Conservation district ~~account~~ appropriations -- administration.** (1) ~~There is a conservation district account in the state special revenue fund of the state treasury. Money is paid into this account under 15-35-108.~~ The state treasurer shall draw warrants payable from ~~this account~~ appropriations of allocations authorized as provided under 15-35-108 on order from the department of natural resources and conservation.

(2) The department of natural resources and conservation shall administer the conservation district ~~account~~ appropriations referred to in subsection (1). The money ~~shall~~ must be distributed ~~from the account~~ to the conservation districts on the basis of need. A conservation district may submit an application to the department of natural resources and conservation for a grant of funds for purposes that conservation districts are authorized to perform.

(3) A conservation district is not eligible to receive a grant unless it has exhausted its authorized mill levies.

(4) The department of natural resources and conservation may adopt rules implementing this

section that provide for the form and content of applications and the criteria, terms, and conditions for making grants."

Section 66. Section 77-1-808, MCA, is amended to read:

"**77-1-808. State lands recreational use account.** (1) There is a state lands recreational use account in the state special revenue fund provided for in 17-2-102.

(2) There must be deposited in the account:

(a) all revenue received from the recreational use license established by 77-1-802;

(b) all revenue received from the imposition of fines under 77-1-801 and 77-1-806 and from civil penalties imposed pursuant to 77-1-804; and

(c) money received by the department in the form of legislative appropriations, reimbursements, gifts, federal funds, or appropriations from any source intended to be used for the purposes of this account.

(3) Money deposited in the state lands recreational use account ~~is statutorily appropriated, as provided in 17-7-502, and~~ must be used by the department for the following purposes:

(a) compensation pursuant to 77-1-809 for damage to the improvements of leases that has been proved to be caused by recreational users;

(b) assistance in weed control management necessary as a result of recreational use of state lands;

(c) protection of the resource value of the trust assets; and

(d) administration and management for the implementation of recreational use of state lands."

Section 67. Section 77-1-809, MCA, is amended to read:

"**77-1-809. Compensation for damage to improvements, growing crops, or livestock.** A lessee may apply to the department for reimbursement of documented costs of repair to or replacement of improvements, growing crops, or livestock damaged by recreational users of state lands. The application must include an affidavit by the applicant setting forth the nature of the loss, allegations and reasonable proof supporting the involvement of recreational users, and documentation of repair or replacement costs. Upon review of the application and supporting proof and upon additional investigation as required, the department shall ~~either~~ grant, modify, or deny the claim. The department, by reason of payment to the lessee for damage to improvements, is entitled to be subrogated to the rights of the lessee to recover the amount paid from the party causing the damage. Payments under this section must be made from

appropriations from the state lands recreational use account established by 77-1-808, and the liability of the department for damage payments is limited to the ~~existing balance of the account~~ available appropriation. Claim applications are to be considered in the order they are received."

Section 68. Section 77-1-810, MCA, is amended to read:

"77-1-810. Weed control management. (1) The department shall establish a weed control management program for the control of noxious weeds reasonably proved to be caused by the recreational use of state lands. The department may by rule establish a noxious weed management program that may include direct compensation for noxious weed control activities or participation in district and county weed control projects or department-initiated weed control activities.

(2) Funding for this program must come from appropriations from the state lands recreational use account pursuant to 77-1-808."

Section 69. Section 80-11-310, MCA, is amended to read:

"80-11-310. Deposit and disbursement of funds -- records -- investment. (1) As soon as possible after receipt, all money received by the department from the assessment levied under 80-11-307 and all other money received ~~shall~~ must be deposited in the state special revenue fund.

(2) All money referred to in subsection (1) ~~is statutorily appropriated, as provided in 17-7-502,~~ may be appropriated to the committee and may be used only for the payment of expenses incurred in carrying out the provisions of this part. The committee may be assessed costs by the department for the services it provides upon request or pursuant to 2-15-121; however, the costs charged must have a substantial relationship to the cost of services supplied.

(3) Money received under ~~this section,~~ 80-11-312, ~~and~~ 80-11-313, and this section that is not immediately required for the purposes of this part must be invested under provisions of the unified investment program established in Title 17, chapter 6, part 2.

(4) Money received under ~~this section,~~ 80-11-312, ~~and~~ 80-11-313, and this section ~~is~~ may be appropriated to the committee for the purposes of this part."

Section 70. Section 82-4-426, MCA, is amended to read:

"82-4-426. Reclamation of land on which bond forfeited. In keeping with the provisions of this

part, the board may reclaim any affected lands with respect to which a bond has been forfeited. If the amount of the forfeited bond exceeds the cost of reclamation, the excess must be deposited in the state general fund."

Section 71. Section 82-11-149, MCA, is amended to read:

"**82-11-149. Civil penalties.** (1) A person is guilty of a misdemeanor and is subject to a civil penalty of at least $75 and not more than $10,000 a day for each violation if that person violates any rule or order of the board or a provision of this chapter. Each day of violation constitutes a separate violation.

(2) Action under this section does not bar enforcement of this chapter or of rules or orders issued under it by injunction or other appropriate remedy.

(3) The board, or the attorney general upon request of the board, shall institute and maintain any enforcement proceedings in the name of the state.

(4) Civil penalties collected pursuant to this section must be deposited in the state general fund."

Section 72. Section 87-1-114, MCA, is amended to read:

"**87-1-114. Disposition of proceeds.** All money collected by a court pursuant to 87-1-111 through 87-1-113 must be remitted to the state treasurer for deposit in the state ~~special revenue~~ general fund ~~as provided in 87-1-601(1). If restitution is ordered out of a forfeited bond or bail, any balance of bond or bail money must be disposed of as provided in 87-1-601(4).~~"

Section 73. Section 90-1-108, MCA, is amended to read:

"**90-1-108. County land planning assistance.** (1) The department of commerce shall annually distribute the funds appropriated to it ~~from the~~ for county land planning ~~account~~. Each county ~~shall~~ must be allotted ~~$3,000. After this disbursement has been made,~~ 40% of the ~~balance in the account shall be apportioned to the counties~~ funds according to the ratio of ~~each~~ the county's land area to the total land area of the state and 60% of the ~~balance~~ funds ~~shall be apportioned to the counties~~ according to ~~each~~ the county's portion of the total population of the state. If a multijurisdictional planning board has been established in the county, it may receive and expend part or all of the funds allocated to that county.

(2) Counties, cities, or joint planning boards receiving funds under this section shall use ~~such~~ the funds for land planning purposes, which include but are not limited to comprehensive planning, economic

development planning, and capital improvements planning.

(3) At the end of each fiscal year, ~~every~~ each local governing body and planning agency receiving funds under this section shall provide an accounting of how the money was spent, in a form acceptable to the department of commerce. ~~Surplus funds may be accumulated and rebudgeted for the purposes stated in subsection (2), except that funds rebudgeted by a local governing body or planning agency may not exceed the total revenue received under subsection (1) in the year immediately prior to the budget year. Any excess funds shall revert to the state special revenue fund for state equalization aid to public schools of the state at the end of each odd-numbered fiscal year, beginning in June 1991.~~"

Section 74. Section 90-6-201, MCA, is amended to read:

"**90-6-201. Purpose.** The purposes of this part are to assist local governmental units ~~which~~ that have been required to expand the provision of public services as a consequence of large-scale development of coal mines and coal-using energy complexes, to assist in the construction and reconstruction of designated portions of highways ~~which~~ that serve the area affected by ~~such~~ the large-scale development, to support county land planning, and to ~~invest a portion of the tax revenue from coal mines in a permanent fund, the income from which shall be used for the~~ support ~~of~~ public schools throughout the state."

Section 75. Section 90-6-202, MCA, is amended to read:

"**90-6-202. ~~Accounts~~ Account established.** ~~(1) There is within the state special revenue fund a local impact account. Moneys are payable into this account under 15-35-108. The state treasurer shall draw warrants from this account upon order of the coal board.~~

~~(2)~~ There is within the state special revenue fund a coal area highway improvement account."

Section 76. Section 90-6-205, MCA, is amended to read:

"**90-6-205. Coal board -- general powers.** The board may:

(1) retain professional consultants and advisors;

(2) adopt rules governing its proceedings;

(3) consider applications for grants from ~~the local impact account~~ available funds;

(4) consider applications for loans from ~~the local impact account~~ available funds for periods and interest rates to be determined by the board; and

(5) award grants and loans, subject to 90-6-207, from ~~the local impact account~~ available funds:

(a) to local governmental units, state agencies, and governing bodies of federally recognized Indian tribes to assist local governmental units and federally recognized Indian tribes in meeting the local impact of coal development by enabling them to adequately provide governmental services and facilities ~~which~~ that are needed as a direct consequence of coal development; and

(b) notwithstanding the provisions of 90-6-207, to the department of transportation established in 2-15-2501 to expedite the construction, repair, and maintenance of deficient sections of highway within the area designated in 90-6-210 if the deficiency is the direct result of increased traffic accompanying the development of coal resources; and

(6) award a grant to a local government unit for the purpose of paying for part or all of the credit that the local government unit is obligated to give to a major new industrial facility that has prepaid property taxes under 15-16-201. The board must award the grant in accordance with 90-6-206."

Section 77. Section 90-6-207, MCA, is amended to read:

"**90-6-207. Priorities for impact grants.** (1) The department of commerce shall annually designate:

(a) each county, incorporated city and town, school district, and other governmental unit that has had or expects to have as a result of the impact of coal development a net increase in estimated population of at least 10% over one of the 3-year periods specified in subsection (4);

(b) each county and all local governmental units within each county in which:

(i) a mining permit in accordance with the Montana Strip and Underground Mine Reclamation Act has been granted by the department of state lands for a project within the county that will establish a new coal mine to produce at least 300,000 tons a year and that the department of commerce determines will commence production within 2 years;

(ii) the department of commerce has determined that the production of an existing mine will increase by at least 1 million tons a year and that the new or expanded production will commence within 2 years of the designation;

(iii) a newly constructed railroad serves a new, existing, or expanding coal mine; or

(iv) a certificate of environmental compatibility and public need in accordance with the Montana Major Facility Siting Act has been granted by the board of natural resources and conservation for a new steam-generating or other new coal-burning facility that will consume at least 1 million tons a year of

Montana-mined coal and for which the department of commerce determines the construction or operation will commence within 2 years of the designation;

(c) each local governmental unit located within 100 miles, measured over the shortest all-weather public road, of a mine or facility qualifying under subsection (1)(b)(i), (1)(b)(ii), or (1)(b)(iv); and

(d) each local governmental unit in which:

(i) a mine that has produced 300,000 tons or more of coal a year ~~and~~ has ceased all significant mining or is scheduled to cease within 1 year; or

(ii) a steam-generating or other coal-burning facility that has operated under a certificate of environmental compatibility and public need in accordance with the Montana Major Facility Siting Act and that has consumed at least 1 million tons of Montana-mined coal a year has closed or is scheduled to close within 1 year.

(2) Designation under subsection (1) of:

(a) any local governmental unit extends to and includes as a designated unit the county in which it is located; and

(b) a county extends to and includes as a designated unit any local governmental unit in the county that contains at least 10% of the total population of the county.

(3) (a) Except as provided in 90-6-205(5)(b), beginning July 1, 1993, and ending June 30, 1995, the coal board may not award more than 20% of the funds appropriated to it each year for grants and loans to governmental units and state agencies for meeting the needs caused by coal development to local governmental units other than those governmental units designated under subsection (1).

(b) Except as provided in 90-6-205(5)(b), beginning July 1, 1995, and thereafter, the coal board may not award more than 10% of the funds appropriated to it each year for grants and loans to governmental units and state agencies for meeting the needs caused by coal development to local governmental units other than those governmental units designated under subsection (1).

(4) For the purposes of subsection (1), the department of commerce shall use five 3-year periods as follows:

(a) one consecutive 3-year period ending 2 calendar years prior to the current calendar year;

(b) one consecutive 3-year period ending 1 calendar year prior to the current calendar year;

(c) one consecutive 3-year period ending with the current calendar year;

(d) one consecutive 3-year period ending 1 calendar year after the current calendar year; and

(e) one consecutive 3-year period ending 2 calendar years after the current calendar year.

(5) Attention should be given by the coal board to the need for community planning before the full impact is realized. Applicants should be able to show how their request reasonably fits into an overall plan for the orderly management of the existing or contemplated growth problems.

(6) All funds ~~placed in the local impact account established~~ appropriated under this part are ~~subject to appropriations by the legislature~~ for use related to local impact.

(7) All designations made under this section must be for 1 year. A designation may not continue after the department of commerce determines that the mine, railroad, or facility that provided the basis for a designation is contributing sufficient tax revenue to the designated government unit to meet the increased costs of providing the services necessitated by the development of the mine, railroad, or facility. However, nondesignated local governmental units continue to be eligible for coal impact grants and loans of not more than 20% and beginning July 1, 1995, not more than 10% of the funds appropriated to the coal board for grants and loans in circumstances in which:

(a) an impact exists in a community or area directly affected by the operation of a coal mine or mines; or

(b) tax revenue is not available to mitigate the impact due to the closure of a mine or facility."

Section 78. Section 90-6-212, MCA, is amended to read:

"**90-6-212. ~~Local impact account -- disposition~~ Disposition of loan repayments~~, interest, and unexpended balances~~.** ~~(1)~~ The money derived from loans made pursuant to this part, including interest ~~thereon~~ on loans, must be deposited to the credit of the ~~local impact account created in 90-6-202~~ state general fund.

~~(2) The unexpended money in the local impact account must be invested by the board of investments as provided by statute. Interest and earnings must be deposited to the credit of the state special revenue fund for state equalization aid to public schools of the state.~~

~~(3) The unexpended balance in the local impact account at the end of each fiscal year must be deposited to the credit of the state special revenue fund for state equalization aid to public schools of the state.~~"

NEW SECTION. **Section 79. Repealer.** Sections 15-25-123, 15-65-122, 15-65-131, 17-1-503,

23-1-131, 60-2-224, and 75-5-507, MCA, are repealed.

NEW SECTION. **Section 80. Codification instructions.** (1) [Section 11] is intended to be codified as an integral part of Title 15, chapter 70, and the provisions of Title 15, chapter 70, apply to [section 11].

(2) [Sections 18 and 19] are intended to be codified as an integral part of Title 17, chapter 1, part 5, and the provisions of Title 17, chapter 1, part 5, apply to [sections 18 and 19].

NEW SECTION. **Section 81. Effective date.** [This act] is effective July 1, 1995.

-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for Senate Bill 83, Introduced Copy

DESCRIPTION OF PROPOSED LEGISLATION: "An act generally revising laws concerning dedicated revenue and statutory appropriations; amending sections....MCA; and providing an effective date."

ASSUMPTIONS:

Legislative Fiscal Analyst

1. During the 1997 biennium, additional revenue in the general fund due to the de-earmarking of dedicated state special revenues will equal any additional appropriations from the general fund authorized to provide funding for the same services/state obligations formerly funded by dedicated state special revenue, whether requested in the Executive Budget or appropriated by the legislature.
2. Section 16 allows all appropriations made from dedicated revenue sources being de-earmarked by this legislation to the general fund to be made from the general fund. It is assumed that any present law statutory appropriations will be replaced by temporary appropriations enacted by the legislature as part of designated appropriation bills or sections designated as appropriations in other bills. It is further assumed that these temporary appropriations will be equal to the amount of the revenue available under present law.

Department of Transportation

3. A separate account will be created in the special revenue fund to account for nonrestricted revenues identified upon passage of this bill.
4. The following revenues will be deposited into the separate Highway nonrestricted account:
   - -fleet vehicle reg permit fees
   - -custom combine 37.5%
   - -gvw special permits
   - -gvw restricted route permits
   - -gvw custom combine
   - -gvw triples
   - -cranes
   - -temp PSC registration
   - -western regional
   - -doubles permits
   - -transit dealers quarterly permits
   - -restricted route permits
   - -gasoline and vehicle fuels taxes interest and penalties
5. The amounts of penalty and interest for gasoline and vehicle fuels taxes cannot be reasonably estimated. The Department's current revenue collection systems do not separate penalties and interest amounts from the taxes. The systems would require major programming changes to comply with the passage of this bill. MDT does not have sufficient staff to preform this rewrite in-house. We estimate that it will take 200 hours @ $44 per hour to perform the accounts receivable rewrite for a total cost of $8,800.00

(Continued)

Dave Lewis 1-16-95 Lorents Grosfield 1-17-95

DAVE LEWIS, BUDGET DIRECTOR DATE LORENTS GROSFIELD, PRIMARY SPONSOR DATE
Office of Budget and Program Planning

6) Amounts transferred from various state special revenue accounts to the general fund are illustrated below based on Revenue Oversight Committee estimates, except that fine and forfeiture revenues are assumed constant at FY 94 levels.

FISCAL IMPACT:

Expenditures:
It is assumed general fund appropriations will be added to HB 2 to replace the statutory appropriations and de-earmarked funds proposed to be eliminated, including amounts for the state's share of K-12 education expenditures.

Revenues:
The following illustrates the major changes in revenue flows due to the proposal.

	FY96 Difference	FY97 Difference
School Equalization Acc.(02)	(295,741,000)	(302,361,000)
Accommodation Tax SSR Accounts	(8,529,000)	(8,830,000)
Coal Tax Accounts Eliminated (02)	(3,750,000)	(3,541,000)
Various Fines and Forfeitures (02)	(2,333,000)	(2,333,000)
New Coal Tax Account (02)	3,750,000	3,541,000
General Fund (01)	306,603,000	313,524,000
Total	0	0

Net Impact:
The net impact of the proposal will depend on appropriation committee deliberations. If temporary appropriations are passed that are less than the general fund revenue deposits or statutory appropriation amounts, then the proposal will result in an improvement in the FY 97 general fund balance and visa versa. The net impact cannot be determined until these decisions are made.

TECHNICAL NOTES:

Legislative Fiscal Analyst

1. If the legislature intends to continue funding the activities funded under present law by statutory appropriations being eliminated by this legislation, temporary appropriations must be enacted.
2. The legislature may wish to eliminate the statutory appropriation authority that would become statutory general fund appropriation authority with the enactment of this legislation. Any statutory general fund appropriations would become open-ended general fund appropriations.
3. Certain statutory appropriations authorized by present law and eliminated by this legislation have been requested in the Executive Budget. If this legislation is not enacted, there may be duplicate appropriation authority available, specifically a) travel promotion (Commerce); b) state parks maintenance (Fish, Wildlife and Parks); c) microbusiness finance program administration (Commerce).
4. Present law, in specific instances, both defines the revenue from fees, fines and/or forfeitures and states that this revenue "can be used for" or "must be appropriated for" specific purposes. This legislation states that appropriations "may be used" for specific purposes. Do these clauses contradict the intent to eliminate revenue dedication?

(Continued)

5. Section 16 reference to 17-1-504(1) should be amended to replace "from an account terminated pursuant to legislative review" with "from sources de-earmarked by the legislature". The reference to 17-1-504(2) should be amended to replace "pursuant to legislative review" with "by the legislature".
6. Section 34 reference to 20-9-343(1) should be amended to strike "the account in the state special revenue fund that receives" and "plus any legislative appropriation of money from other sources".

Office of Budget and Program Planning

7. Funding for the appellate defender commission and the office of the appellate defender is uncertain under the proposal. Section 2 appears to provide state funding only if vehicle revenues exceed district court expenses, with counties responsible for its funding in the event of a shortfall in revenue. No appropriation authority is provided, however. Given this uncertain nature, a minimum level of funding would need to be provided in HB 2, with the possibility that funds would be provided via section 2 for which no additional appropriation authority is provided. The requested funding is $205,229 each year of the biennium.

understandable. Section 2 expresses the true percentage of the bed tax, and he noted it does not change the amount of money received by anyone. Sections 3 and 4 dealing with the coal tax interest income makes it comply with SB 378 that passed the legislature last session. Another area of the bill responds to an Attorney General's opinion in 1980 that said, "this problem should be presented to the legislature as soon as possible". He commented that now there is an attempt to fix the problem. The proceeds from the gas dealers' license tax is supposed to be paid out of that total account. He said there are refunds coming out of that money, and there is the question of whether it is being taken out of the total before the refunds or the total after the refunds. The Attorney General's opinion and the statutes state that even though legislative intent was the opposite, it has to be taken out before the refunds are made. He referred to the fiscal note showing that $79,844 would divert from the four accounts and go into the highway earmarked revenue, which represents about 4.92 percent of those budgets. He concluded that this is an attempt to comply with the Attorney General's opinion of 1980.

Proponents' Testimony:

None.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

None.

Closing by Sponsor:

SENATOR GROSFIELD closed.

HEARING ON SENATE BILL 83

Opening Statement by Sponsor:

SENATOR LORENTS GROSFIELD, Senate District 13, Big Timber, sponsor, said state finances would be simplified with the passage of SB 83, as well as making it easier for the legislature to scrutinize, prioritize, monitor taxpayers' money and make the budget more understandable. He described charts showing general fund revenues and expenditures for the 1995 biennium **EXHIBIT 1.** He related that earmarked funds and statutory appropriations was discussed by a subcommittee of the Legislative Finance Committee. The subcommittee recommendations presented to the Legislative Finance Committee passed the Finance Committee unanimously. He explained that de-earmarking does not mean the elimination of a program, but rather that the program is on equal footing with

other programs and that there is competition within the general fund for funding for a particular program. He said that SB 83 is not targeting any one group. He noted that the Legislative Finance Committee reviewed 364 earmarked accounts. At the beginning of the 1993 session there were 264 earmarked accounts. In 1991 there were 197 which shows the dramatic growth in earmarked accounts. He presented to the committee a study done by the National Conference of State Legislatures regarding the percentage of budgets that are earmarked. He indicated that the last study done was in 1988 **EXHIBIT 2**. He related that Montana currently is at approximately 53 percent in earmarked budgets.

At this point **SENATOR GROSFIELD** explained SB 83 section by section.

SENATOR GROSFIELD said the first year that the bed tax collections were made was in 1988, and the amount was $3.3 million. In 1989, $5.4 million; 1990, $6.1 million, and in 1994 it was $8.0 million. He said that the initial purpose of the bed tax was to advertise so that people would discover Montana, noting that now Montana has been discovered. He added that a motion was made in the full Legislative Finance Committee to de-earmark the entire bed tax to the general fund, which motion he thought passed unanimously. While tourism has helped the economy, the Finance Committee felt it was time to put the money into the general fund to help pay for some of the impacts that come from tourism.

SENATOR GROSFIELD presented to the committee a document depicting increases in the general appropriations act for fiscal year 1986 to fiscal year 1994 as well as increases in appropriations and budget amendments from fiscal 1986 to fiscal 1994 **EXHIBIT 3**.

SENATOR GROSFIELD presented a Legislative Finance Committee summary of all accounts affected by the bill including statutory appropriations that are eliminated **EXHIBIT 4**.

SENATOR GROSFIELD presented a document characterizing sections of SB 83 and their intent **EXHIBIT 5**.

SENATOR GROSFIELD presented documents relative to statutory appropriations from fiscal 1986 to fiscal 1994 **EXHIBIT 6** and explained there was an increase in eight years of 800 percent, going from $105.7 million in fiscal 1986 to $945 million of statutory appropriations in Montana.

SENATOR GROSFIELD distributed proposed amendments to SB 83 **EXHIBIT 7**, noting that many of the amendments respond to technical issues in the fiscal note.

Proponents' Testimony:

Dennis Burr, Montana Taxpayer's Association, testifying in support of SB 83 said if the earmarked revenue source doesn't

raise enough money to fund the program, it is superfluous to earmark it in the first place, which was the situation with education funds. He added that a revenue source can bring in more money than is needed for a program which is a mis-allocation of resources. Some of that money should be used for a higher priority. The earmarked source brings in the correct amount of money for a particular program because the rate is adjusted to get the amount that is needed. He questioned if the revenue from this particular tax was not dedicated to the particular purpose it is dedicated to, would the tax exist at all. Looking at some of the taxes that way, they would not have existed if it had not been dedicated for that purpose. He concluded that SB 83 is a good step in straightening out Montana's system of accounts.

Informational Testimony by Senator Jacobson:

SENATOR JACOBSON pointed out that when a program is de-earmarked, taken from a special revenue account and put into the general fund, it does not mean there will be no money in the next legislative session allotted for that program in the budget book. They will be treated like everyone else. While it is being accounted for in a different fund, they will have a base budget in the budget book like every other program in state government.

Proponents' Testimony (continuing)

Beth Baker, Department of Justice, stated they support the general concept of de-earmarking, adding that the Department of Justice receives much of their funding from the general fund and the services they provide are a good use of that money. SB 83 affects two accounts administered by the Department of Justice; one being for breathalizer equipment and the other is the state drug forfeiture account. She presented a proposed amendment to page 42 of SB 83, striking section 49 in its entirety **EXHIBIT 8.** She stated the money being discussed is proceeds of or property used in drug crimes. The drug forfeiture act is modeled after federal law and is intended to take money from drug dealers and used for drug enforcement efforts. In the last five fiscal years, it has averaged about $35,000 yearly in revenues. The expenditures vary from $3,000 to approximately $84,000. She added that the Department of Justice is authorized to spend up to $125,000 yearly. Each of those expenditures must be approved by the Attorney General. She said the fines are critical to the drug enforcement effort. There is the problem of being unable to anticipate how much revenue will be brought in from forfeitures or how much and when they will be required to spend the money. Without the statutory appropriation, they do not have the needed flexibility and will be forced to come before the legislature and ask for the full $125,000 each fiscal year to handle drug busts. SB 83 allows local law enforcement agencies to use their share of the forfeiture money for drug enforcement efforts. She concluded that it doesn't make sense to allow local agencies to use this money but remove the flexibility from the statewide drug enforcement agency. She added that **Mike Batista, Law Enforcement**

Services, Department of Justice, could answer any specific questions about the account.

Linda Reed, Senior Economic Development Advisor, Governor's Office, presented testimony in support of SB 83 with the exception of Section 8 **EXHIBIT 8A.**

Mike Volesky, Executive Director, Montana Association of Conservation Districts, stated his support of SB 83 on behalf of Montana's 58 conservation districts. He read into the record the list of projects that 223 program money is used for. He said a citizens group of conservation district supervisors oversees the grants and funds projects that are important to the conservation projects. He concluded that the districts are nervous about giving up these grants, but they are willing to take the chance to let the projects speak for themselves and receive the grant funding in the future based on the merits of the projects.

SENATOR SWYSGOOD went on the record in support of SB 83.

SENATOR LYNCH asked if it could be determined how many people are opposed to SB 83 and how many are opposed only to Section 8 of SB 83.

With a show of hands from the audience as to those opposed only to Section 8, **SENATOR AKLESTAD** said most in opposition are speaking to the bed tax portion of SB 83.

{Tape: 1; Side: b; Approx. Counter: ; Comments: .}

Opponents' Testimony:

Robert Dunlop, Helena valley resident, stated his opposition to Section 8 of SB 83, noting that the bed tax is working very well, is successful and is a very good program. He added that the $8 million is spent over the entire state and not concentrated in one particular area. Tourists bring money to Montana and create jobs in the state.

Eric Feaver, Montana Education Association, stated his support of amendments to be offered to SB 83. He said SB 83 is a good idea but questioned why lottery is not being de-earmarked. He presented an amendment for consideration that would delete on page 36, Section 44, subsection (3), lines 11-12, noting there is no connection between the lottery and public schools. **EXHIBIT 9**

Kathy Fabiano, Office of Public Instruction, presented testimony in opposition to SB 83 **EXHIBIT 10.**

Keith Colbo, Executive Director, Montana Tourism Coalition, stated his opposition to Section 8 and Section 23 of SB 83. He said the tourism promotion program is very important. Over the

last six years the industry has responded to the comments and concerns of the legislature. He said it is expressed in the Governor's recommendations to the legislature and work done during the interim with local governments trying to assess the tourism impact on local communities. He indicated his support for the Governor's recommendation and the tourism advisory council recommendation in terms of the program and its future. Regarding tax philosophy, he agreed with the comments made by **Dennis Burr**, adding that the accommodations tax in Section 17 would qualify. He concluded that in good and bad times, the tourist industry must perform; it is revenue, economic development and jobs.

Greg Bryan, President, Montana Tourism Coalition, spoke in opposition to the accommodation tax in SB 83 **EXHIBIT 11.**

Ken Hoovestol, representing the Montana Boating Association, stated his opposition to Title 23-2-507 which transfers approximately $6,000 yearly from the boating enforcement fund. Also representing the **Montana Snowmobile Association,** he stated his opposition to Section 23-2-644 which takes about $6,000 a year from the safety education funds. The Snowmobile Association also is opposed to the bed tax inclusion in SB 83.

Candace Torgerson, Montana Innkeepers Association, speaking in opposition, said they would like to have the bed tax exempted from SB 83. She presented testimony to the committee **EXHIBIT 12.**

Michael Jaworsky, Executive Vice President, Missoula Chamber of Commerce, stated his opposition to de-earmarking the bed tax. He stated his support of reviewing a fund such as this. He said sectors of the Montana economy are impacted by tourism and natural resources, and a small and agreeable reallocation of funds to address tourism impacted parts of economy are in order.

Ernie Nunn, Helena Area Chamber of Commerce, stated that a letter was sent to all Finance and Claims Committee members regarding de-earmarking accommodation funds. De-earmarking the funds would affect a program that is highly effective in Helena and throughout the state.

David Owen, Montana Chamber of Commerce, stated he is in agreement with the comments made by **Dennis Burr** but that he is opposed to the sections related to the room tax. He said he was also speaking for **Connie Kenney, Butte Chamber of Commerce, Nick Herrin, Kalispell Chamber of Commerce** and **Webb Brown, Lewistown Chamber of Commerce.**

Art Shaw, representing the Montana Alfalfa Seed Committee and program officer for the Seed Committee, having served in this capacity since the committee was created by the 1981 legislature, said the proposal to remove the statutory appropriation from the Alfalfa Seed Committee should be made only after review of the committee's operations and concerns. He presented to the

committee the 1994 and 1995 budgets of the Seed Committee as well as a summary of income and expenditures from fiscal year 1987 through fiscal year 1994 **EXHIBIT 13.**

Brad Griffin, Executive Vice President, Montana Retail Association, stated his opposition to Section 8 for the same reasons as stated by previous opponents.

Darlene Staffeldt, Montana State Library, speaking on behalf of **Richard Miller, State Librarian,** stated her objection to Section 7 relating to money coming into the State Library for networking and the greater portion going out to the six library federations across the state for benefit to libraries. She presented to the committee the distribution to the libraries **EXHIBIT 14** and a map showing libraries in Montana and which federation they are in **EXHIBIT 15.**

Nancy Silliman, Deer Lodge public librarian, representing the Montana Library Association, said the federation system and the funds that are funneled to it are essential to meet the expectations of patrons in 1995. The funds pay for continuing education expenses as well as inter-library loan listings on CD rom disks, service enhancements, and services that could not be replicated elsewhere. She concluded that the federation system is necessary to support attempts to have good library services in her area.

Deborah Schlesinger, a member of the Governmental Affairs Committee of the Montana Library Association, presented testimony in opposition to SB 83 **EXHIBIT 15A.**

Peggy Guthrie, Choteau, Montana, member of the State Library Commission, stated her opposition to repeal of Section 7 subsection (f) that establishes the amount of funding for basic public library services. She felt the proposed change would jeopardize the present funding level for public libraries in Montana. She said **SENATOR GROSFIELD** did not address library funding in his opening statement. She concluded that it is important to see that monies are secured for libraries.

Dan Purcell, Montana Traffic Education Association, offered written testimony in opposition to SB 83 **EXHIBIT 16.**

Tom Ebzery, Billings attorney, representing Montana Airport Management Association, submitted written testimony in opposition to Section 8 of SB 83 **EXHIBIT 17.**

Connie Kenney, representing Butte Chamber of Commerce and Gold West County (nine counties in southwestern Montana), in opposition to Section 8, said they would like to keep the bed tax funds in its current place. She stated her agreement with the comments made by **Linda Reed** that Travel Montana is doing an excellent job.

Doug Abelin, Montana Trail Vehicle Riders Association, stated he was opposed to Sections 40 and 41 of SB 83. He said their organization worked hard for it and they would like to protect it.

Maureen Averill, Flathead Lake Lodge, stated her opposition to de-earmarking the bed tax, adding that it needs to continue to be maintained because it is a strong and important economic impact for the state.

Larry McRae, Outlaw Inn, Kalispell, stated he was in agreement with comments opposing Section 8. He noted that $1.2 billion is not only spent on food, beverage, hotel rooms but also is spread across communities in Montana.

Lorna Frank, Montana Farm Bureau, stated her concern regarding the Montana Growth Through Agriculture Act. She said without this Act that was implemented in 1987, projects that were funded in this state probably would not currently be there.

Questions From Committee Members and Responses:

SENATOR SWYSGOOD said the subcommittee in discussing the issue had recommended that the bed tax money go into a state special revenue account and then the expenditures would have to be justified to the legislature. He questioned how the tourism industry felt about that idea.

Greg Bryan, Montana Tourism Coalition, said they questioned why the statutory appropriation would be removed if there was not a desire and effort to later approve or adjust those funds and use them. The statutory appropriation asked for initially was because the amounts continually changed, and there was no ability to create long term marketing plans. Currently there is the ability to have the budget and fund expenditures brought before appropriations committee and explained, comments received and adjustments made.

SENATOR SWYSGOOD asked if they were not satisfied with that method either.

Greg Bryan said there was a lack of security of the funds being used in the way they were intended.

When questioned by **SENATOR SWYSGOOD** why they were afraid of a lack of security, **Greg Bryan** said at times political elements get in the way, and he felt results speak for themselves.

SENATOR JACOBSON said the subcommittee discussions relative to this were public meetings but had no public participation. The subcommittee suggested this approach because this fund is growing tremendously; it is not only taxing the tourists but also Montanans who also pay the bed tax. Approximately seven years ago the Travel Promotion Bureau in the Department of Commerce was

at $1.3 million, then $3 million and is now at $7 million a year with no oversight from the legislature. She added that the account is so fast growing that it needs review. She noted that it was not the intent of the subcommittee to say that there was not a good job being done with travel promotion. She explained that infrastructure could be looked at, with the idea of possibly moving some of the money out of Helena and into the hinterlands. That was the approach taken by the subcommittee in wanting to set up a special revenue account that could only be used for tourism promotion.

Greg Bryan said every legislative session Travel Montana gives the Department of Commerce a presentation about the budgeting process. This is presented to the legislature for review, and comments and input are welcome to make expended funds more effective and efficient. The fact that the fund is growing shows it is working well, generating more jobs and income for the state of Montana.

Senator Jergeson said he received a communication that insinuated that he made comments that he did not make, adding that the arrogance apparent in this type of letter **EXHIBIT 18** is an indication why the legislature should have closer review and scrutiny over how money raised from the taxpayers is spent. He said he would appreciate a comment relative to this from someone from the tourism industry.

Greg Bryan said he was not aware of the letter and added that the tourism industry tries to be polite, respectful and appreciative.

SENATOR JERGESON said the letter was from the Missoula Hospitality Association.

Greg Bryan said he would follow up on the letter **EXHIBIT 18**. He asked that the committee not blame the entire industry for one segment.

Closing by Sponsor:

SENATOR GROSFIELD, in closing, said people that are really worried about the ability to compete in the general fund have to consider what that says about the legislature's ability to prioritize the spending of people's money. He said that the effect of earmarking and statutory appropriations over a long period of time really means that previous legislatures have tied the hands of this legislature. He added that SB 83 does not stop any programs. He urged the committee to work with the Office of Public Instruction to resolve any technical issues. He said tourism is a very important and growing industry but needs discussion in this legislature.

MONTANA SENATE
1995 LEGISLATURE
FINANCE AND CLAIMS COMMITTEE

ROLL CALL DATE 1/19/95

NAME	PRESENT	ABSENT	EXCUSED
SWYSGOOD, CHUCK	✓		
BURNETT, JIM	✓		
MOHL, ARNIE	✓		
JERGESON, GREG	✓		
FRANKLIN, EVE	✓		
TVEIT, LARRY	✓		
JENKINS, LOREN	✓		
JACOBSON, JUDY	✓		
LYNCH, J.D.	✓		
HARDING, ETHEL	✓		
TOEWS, DARYL	✓		
CHRISTIAENS, B.F. "CHRIS"	✓		
WATERMAN, MIGNON	✓		
KEATING, TOM - VICE CHAIRMAN	✓		
BECK, TOM	✓		
AKLESTAD, GARY - CHAIRMAN	✓		

SEN:1995
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XI

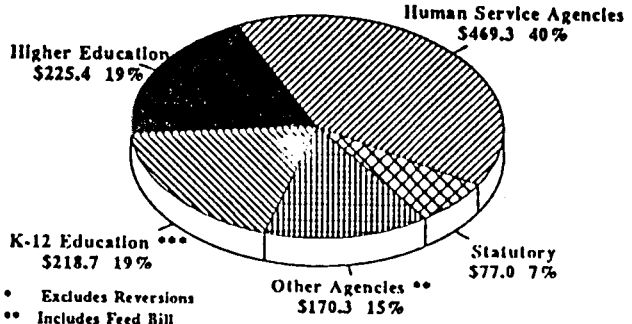
SENATE FINANCE AND CLAIMS
EXHIBIT NO. 1
DATE 1/19/95
BILL NO. SB 83

SB 83

EXHIBIT 1

GENERAL FUND REVENUES AND EXPENDITURES

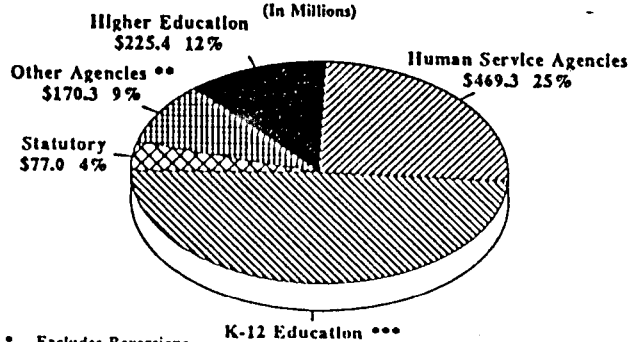
1995 Biennium General Fund
*Disbursements By Agency - $1,160.7**
(In Millions)



* Excludes Reversions
** Includes Feed Bill
*** Includes $126.8 Million Transferred To SEA.

GRAPH 1

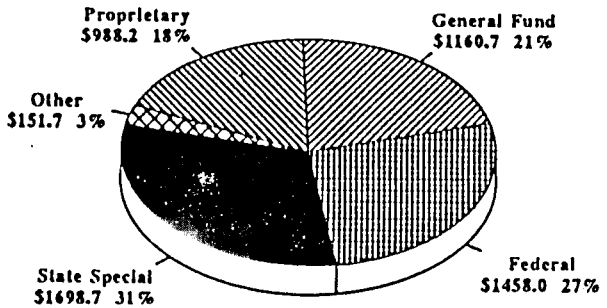
1995 Biennium General Fund/SEA
Disbursements By Agency - $1,846.0
(In Millions)



* Excludes Reversions
** Includes Feed Bill
*** Includes $126.8 Million Transferred To SEA.

GRAPH 2

1995 Biennium Total Funds
*Disbursements - $5,457.3**
(In Millions)



* Includes Estimated Statutory Appropriations

GRAPH 3

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 2
DATE 1/19/94
BILL NO. SB 83

SB 83

EXHIBIT 2

DISTRIBUTION REQUESTED BY:
Sen. Grosfield

re:
SB 378

Proportion of Tax Revenue Earmarked by State
Fiscal Years 1954, 1963, 1979, 1984, and 1988

State	1954	1963	1979	1984	1988
New England					
Connecticut	26%	23%	0%	1%	12%
Maine	46	39	19	20	17
Massachusetts	56	54	41	40	N/A
New Hampshire	53	54	31	24	24
Rhode Island	6	4	0	1	5
Vermont	42	39	23	23	12
Mid-Atlantic					
Delaware	0	3	0	5	7
Maryland	47	40	34	24	20
New Jersey	7	2	23	39	36
New York	13	10	0	6	N/A
Pennsylvania	41	63	15	15	14
Great Lakes					
Illinois	39	43	14	18	21
Indiana	49	39	43	33	30
Michigan	67	57	38	39	35
Ohio	48	48	21	18	19
Wisconsin	63	61	N/A	17	12
Plains					
Iowa	51	44	19	13	21
Kansas	77	66	29	25	21
Minnesota	73	74	12	13	14
Missouri	57	40	20	29	30
Nebraska	55	53	41	29	22
North Dakota	73	43	29	21	22
South Dakota	59	54	33	32	27
Southeast					
Alabama	89	87	88	89	89
Arkansas	41	36	21	18	17
Florida	40	39	28	28	26
Georgia	29	22	11	9	8
Kentucky	46	29	N/A	16	N/A
Louisiana	85	87	5	4	9
Mississippi	40	37	N/A	30	26
North Carolina	38	30	20	8	14
South Carolina	69	62	56	55	44
Tennessee	72	77	60	61	66
Virginia	39	32	27	24	25
West Virginia	57	39	21	21	20
Southwest					
Arizona	47	51	31	29	32
New Mexico	80	31	36	44	47
Oklahoma	62	59	N/A	43	24
Texas	81	66	54	20	24
Rocky Mountain					
Colorado	75	51	17	25	18
Idaho	51	44	38	32	25
Montana	61	53	55	60	72
Utah	74	62	52	48	N/A
Wyoming	61	64	54	69	N/A
Far West					
Alaska	N/A	6	1	2	9
California	42	28	12	13	12
Hawaii	N/A	7	5	5	6
Nevada	55	35	34	52	49
Oregon	47	36	23	19	23
Washington	35	30	29	26	29
Average	**51%**	**41%**	**23%**	**21%**	**23%**

Note: N/A - Not available.
Source: 1954 and 1963, Tax Foundation, *Earmarked State Taxes*; 1979, Montana, Office of the Legislative Fisc Analyst, memo (March 19, 1930); 1984, NCSL surveys conducted in 1985, 1986; and 1988, NCSL survey conducted in 1989.

15th 18th 5th 3rd 2nd
only 7 other states over 1/3 earmarked
only 2 other states over 1/2 earmarked

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 3
DATE 1/19/95
BILL NO. SB 83

SB 83

EXHIBIT 3

Increases in Appropriations
General Appropriations Act
Fiscal 1986 to Fiscal 1994

Fund Type	Fiscal 1986	Fiscal 1994	Dollar Increase	Percent Increase
General Fund	$347,906,629	$456,553,722	$108,647,093	31.23%
State Special	308,032,335	346,305,060	38,272,725	12.42%
Federal	392,596,546	701,011,703	308,415,157	78.56%
Proprietary/Other	55,180,325	174,711,502	119,531,177	216.62%
Total	$1,103,715,835	$1,678,581,987	$574,866,152	52.08%

Increases in Appropriations
Budget Amendments
Fiscal 1986 to Fiscal 1994

Fund Type	Fiscal 1986	Fiscal 1994	Dollar Increase	Percent Increase
General Fund	$0	$0	$0	0.00%
State Special	277,439	780,596	503,157	181.36%
Federal	6,562,461	8,039,040	1,476,579	22.50%
Proprietary/Other	239,749	5,059,843	4,820,094	2010.48%
Total	$7,079,649	$13,879,479	$6,799,830	96.05%

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SENATE FINANCE AND CLAIMS
EXHIBIT NO. 4
DATE 1/19/95
BILL NO. SB 83

SB 83

EXHIBIT 4

Legislative Finance Committee
Summary of SB 378 Recommendations

November 18, 1994

State Special Revenue Accounts

Action/Account	Agency	Fiscal 1994 Revenue	Accounts Eliminated
SSR Accounts Not Used		NA	-61
De-earmark to the General Fund			
School Equalization Aid Account			
02403-School Equalization Aid	OPI	(280,489,269)	0
Accommodation Tax			
02116-Accommodation Tax	Commerce	(5,341,777)	-1
02254-Regional Accommodation Tax	Reg. Nonprofit Tourism Corps.	(1,698,083)	-1
02274-DFWP Accommodation Tax	Fish, Wildlife and Parks	(509,113)	-1
02111-Accommodation Tax	Commissioner of Higher Ed.	(195,499)	-1
02123-Sites and Signs	Montana Historical Society	(78,321)	-1
02110-Collection & Disbursement Costs	Revenue	(89,968)	-1
Fines & Forfeitures			
02402-Traffic & safety education	OPI	(1,006,511)	0
02011-MBCC-crime victims benefits	Board of Crime Control	(472,639)	-1
02422-Highways special revenue	Transportation	(349,574)	0
02416-Warden ret-fines	Fish, Wildlife and Parks	(247,676)	-1
02128-Battered spouse-special rev.	Family Services	(27,942)	-1
02425-Inspection and control	Livestock	(16,944)	0
02409-General license	Fish, Wildlife and Parks	(48,567)	0
02413-F&G motorboat cert ID	Fish, Wildlife and Parks	(7,643)	0
02414-Snowmobile reg	Fish, Wildlife and Parks	(9,023)	0
02115-Off-highway vehicle fines	Fish, Wildlife and Parks	(2,933)	0
02238-Off-highway vehicle acct (Coned)	Fish, Wildlife and Parks	(2,933)	0
02207-Water quality rehab account	DHES	(18,000)	-1
02204-Public drinking water	DHES	0	0
02143-Drug forfeitures-state	Justice	(39,783)	-1
02010-Oil & gas damage mitigation	DNRC	(24,179)	0
02029-Board of horse racing	Commerce	(6,650)	0
02128-Battered spouse-special rev.	Family Services	(2,065)	0
02133-Dangerous drug tax admin.	Revenue	(1,163)	-1
02096-Reclamation-bond forfeitures	State Lands	(76,599)	-1
Total		($290,762,851)	-13
Combine into one Account			
Coal Severance Tax			
02445-Local Impact	Commerce	(2,785,078)	-1
02132-Growth Through Agriculture	Agriculture	(318,295)	-1
02444-County Land Planning	Commerce	(159,147)	-1
02405-State Library Commission	State Library	(159,147)	-1
02434-Conservation Districts	DNRC	(79,574)	-1
Total		($3,501,241)	-5
Clean-up			
02403-School Equalization Aid	OPI	(6,203,056)	0
Total		($6,203,056)	0
New Accounts			
New-Coal Severance Tax		3,501,241	1
Total		$3,501,241	1
Totals		($296,965,906)	-78

Statutory Appropriations Eliminated

Purpose	Agency	Fiscal 1994 Expenditure	M.C.A. Citation
Appellate defender program	Judiciary	100,000	03-05-901
Dangerous drug tax administration	Revenue	0	15-25-123
Travel promotion	Commerce	5,090,993	15-65-121
Historical sites and signs	Historical Society	98,463	15-65-121
Travel research	University of Montana	76,591	15-65-121
State parks maintenance	Fish, Wildlife and Parks	294,570	15-65-121
Microbusiness finance program administration	Commerce	139,547	17-06-409
Research projects	Board of Public Education	71,559	20-04-109
Safety education programs	Fish, Wildlife and Parks	0	23-02-823
Chiropractic panel	Judiciary	8,840	27-12-206
Drug law enforcement	Justice	2,980	44-12-206
Forensics science equipment purchase	Justice	49,826	61-02-107
Water quality rehabilitation	DHES	4,131	75-05-507
Improve state owned lands	State Lands	37,110	77-01-808
Improve alfalfa seed culture & markets	Agriculture	23,110	80-11-310
Total		$5,997,720	

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 5
DATE 1/19/95
BILL NO. SB 83

SB 83

EXHIBIT 5

Legislative Fiscal Analyst
CLAYTON SCHENCK

Room 105 · State Capi
P.O. Box 2017
Helena, Montana 59620-17
(406) 444-29
FAX (406) 444-30

STATE OF MONTANA
Office of the Legislative Fiscal Analyst
(from Roger Lloyd)

January 10, 1995

Senator Lorents Grosfield
Seat No. 23
Montana Senate
Helena MT 59620

Dear Senator Grosfield:

As you requested, attached is a summary of each section contained in LC0200. The sections can be categorized in the following way, as well.

A. Elimination of statutory appropriations: sections 2, 8, 21, 22, 25, 41, 43-45, 49, 52, 66, and 69.

B. De-earmarking of state special revenue accounts to the general fund:

1. fines and forfeitures: sections 3, 5, 6, 28, 38-40, 42, 49-51, 60-64, 70-72;
2. SEA: section 34 (section 21 also addresses the SEA statutory appropriation); and
3. coal tax interest and earnings: section 21

C. Separation of constitutionally protected revenue from non-protected revenue sources: sections 4, 9-12, 53, 55-59

D. Combining coal severance tax accounts for legislative funding based on priorities: sections 7, 65, 73, 75-78

Other sections eliminate statutory references, or provide clean-up, clarification, or administrative procedures.

Sections 13-19 clarify Legislature (and other agency) approach to earmarking and statutory appropriations in the future.

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 6
DATE 1/19/95
BILL NO. SB 83

SB 83

EXHIBIT 6

Legislative Fiscal Analyst
CLAYTON SCHENCK

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STATE OF MONTANA
Office of the Legislative Fiscal Analyst

January 16, 1995

Senator Lorents Grosfield
Seat No. 23
Montana Senate
Helena, MT 59620

Dear Senator Grosfield:

This letter is in response to your recent request for information concerning statutory appropriations. Please note that the figures used are not actual expenditures, but estimates used for the purpose of establishing spending authority in each year.

In fiscal 1986, a total of $105.72 million in authority was established for statutory appropriations. In fiscal 1994, a total of $945.04 million in authority was established. Table 1 shows the increase by fund type. As shown, the largest increase, both in total dollars and as a percentage, occurs in state special revenue.

Table 1
Increases in Statutory Appropriations by Fund Type
Fiscal 1986 to Fiscal 1994

Fund Type	Fiscal 1986	Fiscal 1994	Dollar Increase (Decrease)	Percent Increase (Decrease)
General Fund	$14,789,010	$38,817,517	$24,028,507	162.5%
State Special	53,960,729	604,077,427	550,116,698	1019.5%
Federal	8,672,382	17,562,533	8,890,151	102.5%
Proprietary/Other	28,294,966	284,584,077	256,289,111	905.8%
Total	$105,717,087	$945,041,554	$839,324,467	793.9%

The increase in statutory appropriations is primarily due to three factors: 1) change to statutory appropriation of three major state expenditures; 2) addition of new programs; and 3) growth in statutory appropriations already in place

in fiscal 1986. These factors account for 96.2 percent of the total increase, and are shown in Table 2.

Table 2
Major Reasons for Increase
Fiscal 1986 to Fiscal 1994

Agency	Statutory Citation	Fund Source	Fiscal 1986 Authorized	Fiscal 1994 Authorized	Description
Change to Statutory					
OPI	20-09-361	State	$0.00	$403.00	School equalization
Labor/State Fund*	39-71-503	State/Prop	0.00	250.00	State Fund
Judiciary	03-05-901	General Fund	0.00	3.80	Dist Court reimbursement
Total Change to Statutory			$0.00	$656.80	
New Programs					
Revenue	15-01-111	General Fund	$0.00	$18.39	Property tax reimbursment
Justice*	23-05-136	State	0.00	22.23	Gambling taxes/fees
Commerce	23-07-402	Proprietary	0.00	34.19	Lottery
Health	75-11-313	State	0.00	5.00	Petro tank cleanup
Revenue	15-36-112	State	$2.00	$32.00	Local Government
Total New Programs			$2.00	$111.81	
Growth of Expenditures					
Admin*	17-05-404	Various	0.01	7.96	Capital projects fund
Retirements	Various	State/Prop	25.31	58.35	Various retirement
Total Growth of Expenditures			$25.32	$66.31	
Total Selected Statutory Appropriations			$27.32	$834.92	

*Other statutory cites, as well.

1) Change to Statutory Appropriation of Major Expenditures - The school equalization account (SEA), the State Mutual Compensation Fund (State Fund), and district court reimbursement were made statutory appropriations during this time period. These additions account for over 78 percent of the increase.

2) Addition of New Programs or Functions - During the period of fiscal 1986 to fiscal 1994, the state began several new programs, the expenditures for which were made by statutory appropriation: a) reimbursement to local taxing jurisdictions for the loss in property tax revenues due to changes in effective tax rates for classes 8 and 12 property; b) the local government severance tax on oil and gas, which replaced certain property taxes and is collected through the state; c) various gambling operations, with resultant fines and fees (only that portion allocated to the counties is statutorily appropriated); d) the state lottery; and e) the petroleum tank cleanup fund. These programs account for 13 percent of the increase.

3) Growth of Existing Programs - The final major cause of increase in statutory appropriations is the growth in statutory appropriations that existed in fiscal 1986. The major increase is in various retirement programs for government employees, including judges, firefighters, and police officers. The table includes capital project funds. However, no major change has occurred

EXHIBIT 6
DATE 1-19-95
SB 83

in this fund. Rather, the increase appears to be an anomaly in the base year of fiscal 1986.

As an appendix, I have included a final table showing all statutory appropriations in fiscal 1986 and fiscal 1994, for your reference.

I hope this information is useful. Please call if you have any questions.

Sincerely,

Taryn Purdy
Principal Fiscal Analyst

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Appendix A
Statutory Appropriations with Expenditure Authorizations
Fiscal 1986 and Fiscal 1994

Agency	Statutory Number	Accounting Entity	Fiscal 1986 Authorized	Fiscal 1994 Authorized	Purpose
Administration	02-09-302	Proprietary	$8,000,000	$3,356,445	Proceeds of self-insurance reserve fund.
Administration	02-17-105	State	155,000	699,687	Indemnification for damage to state buildings
Administration	02-18-812	Proprietary	19,005,001	48,023,000	State employee group benefit claims
Judiciary	03-05-901	Gen Fund	0	3,797,526	Dist Court reimbursement
Military Affairs	10-03-202*	Gen Fund	204,001	175,008	Gifts, etc., disasters, community disaster loans
		Federal	2,150,000	85,630	
Administration	10-04-301	State	0	1,613,666	911
Revenue	13-37-304	State	4,000	0	Public campaign fund
Revenue	15-01-111	Gen Fund	0	18,366,000	Property tax reimbursment
Revenue	15-23-706	State	0	2,020,000	Redistribution of coal gross proceeds
Revenue	15-31-702	State	5,750,000	10,200,000	Corp license taxes collected from banks or s&ls
Revenue	15-36-112	State	2,000,000	32,000,000	Oil and gas severance taxes
Revenue	15-37-117	State	0	1,620,000	Metal mines
State Lib, etc.	15-65-121	State	0	306,000	Bed Tax
		Cur. Unrestr.	0	215,000	
Transportation	15-70-101	State	14,000,000	16,766,000	To local counties and towns for const. and maint. of hwys
Revenue	16-01-404*	State	2,630,000	2,605,000	Allocation of liquor license tax to counties, cities
State Auditor	17-03-212	Federal	6,000,000	15,000,001	Forest reserve to counties
Administration	17-05-404*	Other	7,874	0	Capital projects fund
		Proprietary	0	2,750,000	
		Other	0	5,210,000	
Administration	17-06-101*	Gen Fund	0	600,000	
Administration	17-07-304	Gen Fund	14,585,009	15,808,983	Bonds, etc.
Admin, et.al.		State	20,998,631	19,614,820	
Fish, Wildlife, Parks		Federal	522,382	434,953	
Admin/Military Afrs.		Other	1,282,091	0	
Commerce		Proprietary	0	10,475,000	
Six Units		Plant	0	328,902	
Judiciary	19-05-404	State	0	580,000	Judge's retirement
Fish, Wildlife, and Parks	19-08-504	State	0	275,000	FWP board members' salaries?
State Auditor	19-10-205*	State	5,343,613	7,950,000	Police retirement
State Auditor	19-11-512	State	959,100	1,150,000	Fire department relief association
Bd of Pub Ed	20-04-109	State	0	78,000	Advisory council research
OPI	20-09-361	State	0	403,000,000	School equalization
CHE	20-26-1403	08	0	97,000	Rural physician trust
Justice	23-05-136*	State	0	22,231,200	Gambling taxes/fees
Crime Control	23-07-301	State	0	600,873	Juvenile detention
Commerce	23-07-402	Proprietary	0	34,186,399	Lottery
Chiropractic	27-12-206	State	0	14,000	Chiropractic legal panel
Commerce	37-51-501	State	200,000	100,000	Real estate recovery
Labor/State Fund	39-71-503*	State	0	73,088,638	State Fund
		Proprietary	0	176,910,931	
Labor	39-71-907	Proprietary	0	697,400	Subsequent Injury - Not in statute
Justice	44-12-206	State	0	125,000	State Forfeitures
	44-13-102	Federal	0	125,000	Fed forfeitures
DCHS	53-24-206	State	1,637,973	1,000,000	Chemical dependency to counties
Justice	61-02-107	GF	0	50,000	Intoxilizer maintenance
Justice	19-06-709	State	0	650,000	H.P. Retirement transfer
Transportation	67-03-205	State	0	243,000	Aircraft reg county distribution
DNRC	75-01-1101	State	0	20,000	Park Cty environmental cont
Health	75-05-507*	State	0	60,000	Water rehab account
Health	75-11-313	State	0	5,000,000	Petro tank cleanup
State Lands	77-01-103	State	0	58,906	Admin of ag trust assests
Agriculture	08-02-228	Proprietary	0	2,334,000	Hail board reserve fund
Agriculture	80-11-310	State	0	32,437	Alfalfa seed
DNRC	82-11-136*	State	0	175,000	Oil and gas damage mitigation
DNRC	85-02-707	Federal	0	43,000	Yellowstone groundwater nps
SRS	90-04-215	Federal	0	1,000,000	Stripper energy, etc
Agriculture	90-09-306	State	0	0	Ag council
Governor's Office	90-14-107	Federal	0	873,749	MCC, CNCS
Library Commission	**	State	82,212	0	Not on list
			$105,717,088	$945,041,553	

*Other statutory cites, as well.
**Not on statutory list of statutory appropriations in the 1987 biennium.

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 7
DATE 1/19/95
BILL NO. SB 83

Amendments to Senate Bill No. 83
Introduced Copy

Requested by Senator Grosfield
For the Committee on Senate Finance and Claims

Prepared by Roger Lloyd
January 18, 1995

1. Page 2, line 21.
Following: "funding the"
Insert: "expenses listed in subsection (1)(f) and, to the extent that funds remain, the"

2. Page 2, line 25.
Strike: "to" through "and"

3. Page 2, line 28.
Following: "~~and~~"
Insert: "the appellate defender commission and the office of appellate defender must be funded first and"

The above amendments are necessary to include the appellate defender program as the first priority for funding from revenue available under 61-3-509 before the district court expenses. As HB 83 reads before this amendment, district courts would be funded first. (Reference technical note #7 in the fiscal note.)

4. Page 20, line 26.
Strike: "75-5-507;"

The above amendment strikes the reference to a section being deleted by the bill in the list of statutory appropriations.

5. Page 32, line 10.
Following: "is"
Strike: "statutorily appropriated, as provided in 17-7-502, to"

6. Page 32, line 11.
Following: "~~(1)~~"
Strike: "the superintendent of public instruction"

The above amendments remove the remaining statutory appropriation of revenue for support of public schools that would become a general fund statutory appropriation

under SB 83 as introduced. To maintain funding at present law levels, authority must be appropriated in HB 2. (Reference technical note #2 in the fiscal note.)

7. Page 15, lines 10 and 11.
Following: "appropriated" on line 10
Strike: "the revenue from an account"
Insert: "revenue from sources de-earmarked"

8. Page 15, line 11.
Following: "~~31-1-602~~"
Strike: "terminated pursuant to legislative review"
Insert: "by the legislature"

9. Page 15, line 14.
Following: "~~31-1-602~~"
Strike: "pursuant to legislative review"
Insert: "by the legislature"

The above amendments clarify the intent that appropriations of de-earmarked state special revenue would become general fund appropriations. (Reference technical note #5 in the fiscal note.)

10. Page 29, line 7.
Following: "means"
Strike: "the account in the state special revenue fund that receives"

11. Page 29, line 8.
Following: "section"
Strike: "plus any legislative appropriation of money from other sources"

The above amendments removes reference to a state special revenue account the bill eliminates. (Reference technical note #6 in the fiscal note.)

12. Page 32, line 25.
Strike: "The"
Following: "~~the~~"
Strike: "department may use appropriations for enforcement of this part"

13. Page 32, line 26.
Strike: "."

14. Page 33, lines 4 and 5.
Following: "~~the~~"
Strike: "The department"
Following: "~~only~~"
Strike: "may use appropriations for snowmobile safety and education."

15. Page 36, lines 11 and 12.
Following: "fund"
Strike: "for distribution as state equalization aid to the public schools of Montana"

The above amendments remove reference to appropriations that would become general fund appropriations, thus clarifying that the revenue is not earmarked within the general fund. (Reference technical note #4 in the fiscal note.)

{Office of Legislative Fiscal Analyst 444-2986}

Amendment to Senate Bill 83
First Reading Copy

Requested by Department of Justice
Prepared by
Beth Baker, Department of Justice

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 8
DATE 1/19/95
BILL NO. SB 83

1. Page 42, line 1.
Strike: Section 49 in its entirety.
Renumber: Remaining sections.

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 9a
DATE 1/19/95
BILL NO. SB 83

Senate Bill 83
An Act Generally Revising Laws Concerning Dedicated Revenue and Statutory Appropriations

Testimony
January 19, 1995
Senate Finance and Claims

Mr. Chairman and members of the Committee, I am Linda Reed and I represent the Governor's Office where I am the Senior Economic Development Advisor. I am here as a proponent of Senate Bill 83 with the exception of Section 8. We agree with the general principle that revenue generated in the course of administering the laws and regulations of the State of Montana should become a part of the general fund for reallocation by the Legislature. We believe that such a practice will provide more accountability to the People of Montana by clearly identifying all funds available for agency and program support and make the process of fiscal planning and budget administration simpler and clearer.

We take exception to Section 8 which proposes to deposit the accommodations tax to the general fund. The accommodations tax was imposed specifically to underwrite the cost of implementing and maintaining a program to promote Montana as a tourist destination and location for the production of motion pictures and commercials.

The Travel Montana program is an identifiable business unit, one which is responsible for generating a product, in this case tourists and whose revenue is generated in direct proportion to its success. As a matter of public policy it was deemed beneficial to the State to encourage tourists to visit Montana because they would create demands for goods and services which would be met by new or expanding businesses. The result was to be more dollars circulating within the State and more people working.

Quite appropriately some of our communities have said "STOP!" we can't keep up with the impacts from the tourists. The Travel Montana program responded by changing the focus of Montana's image from our majestic mountains in the northwest to that of scenic vistas from the east. In addition, the regional tourism districts have voluntarily begun to equalize distribution of their portion of the accommodations tax in order to provide financial support to promote less known areas of the State.

Travel Montana has plans to allocate a portion of its budget to two grant programs. One will be specifically focused on developing tangible infrastructure improvements to accommodate the impacts of tourists and a second will assist small communities implementing programs to encourage tourism.

Montana has been discovered, but will it be remembered? Well, we can all debate the merits of advertising, but in the back of my mind there is always this question, "why do I continually see Coca Cola ads?" We have a program to be implemented in the coming

biennium which will take the focus from advertising to marketing and by doing so will provide better services to potential visitors and allow us to market less known areas of the state. This will reduce the need to spend so much on advertising and will create opportunities for increasing funding to the grants programs.

The program is producing. We have more tourists in Montana than at any time, spending more money than ever. This is now our second largest industry. I think that depositing the accommodations tax in the general fund is rather like punishing your children for good behavior, you'll likely not get such good behavior in the future and I would like to think that we can count on the $1.1 billion contributed to the economy by tourists in 1993 and the 32,000 direct jobs supported by the industry as part of our on going economy.

We think leaving the accommodations tax within the Travel Montana program makes common sense. Governor Racicot and Lt. Governor Rehberg both believe this and have publicly committed to preserving the integrity of the program.

There may be other programs with direct revenue and service links that need to be excluded from the general arena of de-earmarking. We trust that the deliberations of this committee will provide opportunities for these to be discovered.

With the exception of Section 8, we request your favorable consideration of SB83.

There are representatives from various agencies here to answer specific questions for you regarding their programs.

Thank you.

9

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 9
DATE 1/19/95
BILL NO. SB 83

January 19, 1995

To: Members, Senate Finance and Claims

From: Eric Feaver

Re: SB 83 (Grosfield)

Please consider amending SB 83, page 36, Section 44, subsection (3), lines 11-12, by deletion:

Delete: "for distribution as state equalization aid to the public schools of Montana"

As amended, the last sentence in subsection (3) would read: "Except for the amount required to be paid under subsection (5), net revenue must be transferred quarterly from the enterprise fund established by 23-7-401 to the state general fund.

In the spirit of de-earmarking, there is no reason not to de-earmark lottery revenue.

X10

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 10
DATE 1/19/95
BILL NO. SB 83

Office of Public Instruction
January 19, 1995

Senate Bill 83
Senator Lorents Grosfield

School districts lose two ways in this bill - they lose the State Equalization Aid account and with it, the last of the revenues earmarked for funding public education, and they lose $500,000 of revenue that's used to help pay for their driver education programs.

A number of the revenue sources presently earmarked for public school education were originally imposed for the specific purpose of funding our schools. The 55 mill county equalization levy, the 40 mill state equalization levy, lottery revenues, and revenues generated from common school trust lands are all revenue sources that the public associates with the state's commitment to education and taxpayer effort to ensure adequate funding for Montana's public school system.

The 55 county mill and the 40 state mill property tax levies generate over $180 million a year for public school equalization aid. Every year the Office of Public Instruction receives a number of requests from school administrators and the public about the contribution of these levies towards funding our public schools. The de-earmarking of the state equalization aid account essentially divorces these statewide tax levies from state support for public schools.

Public school funding from the lottery came about from a 1986 voter initiative to create a Montana lottery and use the lottery profits to fund teachers' retirement. The lottery was promoted to the public as a means of supporting our public schools. This revenue source generates $8-9 million annually to partially fund state guaranteed tax base support for county retirement levies. As with state equalization levies, the Office of Public Instruction receives a number of requests each year for information about how lottery monies contribute to the funding of our public schools. Re-directing these revenues from the state equalization aid account to the state general fund again essentially divorces the lottery revenues from funding for public education.

The most sacred of the revenue sources earmarked for public school education is the monies received from leases and natural resource production on state lands. These monies are protected in Article X, Section 5 of the Montana Constitution and generate approximately $40 million annually for the support of public schools. Again, the Office of Public Instruction receives numerous requests each year for information about how state land revenues contribute to the funding of schools. As a member of the state land board, Superintendent Keenan knows first-hand that the Montana public is very interested and protective of the state's duty to

maximize revenues from state school trust lands. Re-directing the revenue from the public school equalization account to the state general fund breaks the link between state school trust land revenues and support for education.

In addition to these concerns, we have a few technical concerns with the bill, some of which are also discussed in the fiscal note.

1. Section 16 says if the legislature has appropriated revenue from an account and that account is later terminated pursuant to legislative review, the appropriation becomes a general fund appropriation. This section doesn't address what happens to statutory appropriations, and appropriations in accounts like the State Equalization Aid account, that are terminated by this bill.

2. We currently have statutory appropriations in the SEA for equalization aid and bonus payments to schools and for district audit fees paid to the Department of Commerce. These appropriations should remain statutory approps in the general fund since they're formula driven and the formulas are set in law.

The Budget Office initially establishes these appropriations in the state's accounting system at an amount that's our best guess of what we will be required to pay in a given year. Because the appropriations are statutory, we know we can adjust them later if we need to because our estimate missed the mark. The best example of this is payments we make based on the number of kids enrolled in our public schools. For budgeting purposes, we're estimating today what district enrollments will be in SY's 96 and 97. If our estimates are off - and it's impossible to forecast district enrollments with 100% accuracy - a fixed appropriation amount that's based on those estimates could easily end up being less than what the law requires us to pay school districts.

3. The bill needs to make clear exactly when the balances in a terminated account are transferred to the general fund. The effective date of the bill is 7/1/95, which to us means the State Equalization Aid account is gone on that day. If that's true, there's a problem because the State doesn't close its books until the third or fourth week in July. That week in late July is the earliest in FY96 that the SEA account's balances should be transferred to the General Fund - and that's provided that our FY95 reverted appropriations are re-established in the general fund. Under current law agencies are allowed to record adjustments to prior year's expenditures using reverted appropriation authority. OPI frequently has a need to use reverted appropriations for payment adjustments that we don't find out about, and consequently aren't made, until the following year.

EXHIBIT 10
DATE 1-19-95
SB 83

4. There are four sources of revenue that, under this bill are deposited in the general fund, but the wording in the bill is such that the monies are still dedicated for public school funding - they are Interest and income on state lands, lottery profits, the statewide 40 mill levy and county equalization moneys. We can understand the need to continue the dedication of interest and income monies - since those monies are earmarked for schools by the constitution - and it may be necessary to continue earmarking county equalization monies in the general fund so as to not jeapordize federal impact aid monies. But the language that continues to earmark the 40 mills and lottery profits in the general fund should be deleted. It does nothing but complicate the accounting for these monies.

5. Finally, there needs to be an amendment in Section 26, changing the term "BASE aid" to "the state's share of the per-student entitlement". The term "BASE aid" would require that, where applicable, we adjust a district's GTB payment and basic entitlement as well as the per-student entitlement - that's a change to current practice that we don't believe was intended in this bill.

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 11
DATE 1/19/95
BILL NO. SB 83

TESTIMONY IN OPPOSITION TO SB #83
SENATE FINANCE & CLAIMS COMMITTEE
JANUARY 19, 1995

GREG BRYAN, President, Montana Tourism Coalition

Chairman Aklestad and Committee Members - My name is Greg Bryan and I am President of the Montana Tourism Coalition. I am here today to speak on behalf of it's wide variety of industry members in opposition to having the Accommodation Tax's Statutory Appropriation and distribution designation removed by SB 83. As you know the Bed Tax was requested by the tourism industry, was designed with their help and passed by the Legislature, thus creating a partnership with the private sector for Montana's benefit. The statutory provision was a purposeful condition to assure the ability of Travel Montana and the tourism Regions/CVB's to provide effective and efficient marketing programs to attract visitors to our state. The process has worked very well, utilizing the expertise and guidance of the private sector to administer the funds and be sure they are used properly and effectively.

Prior to the creation and dedication of this revenue stream, the marketing efforts of the state were annually impacted by the political winds of the legislature. The State's marketing efforts had to fight and rob from other beneficial programs funded by the General Fund. By creating a dedicated revenue stream, the industry freed up over $1 million a year for other programs from the general fund. The return on the investment is one of the best any of Montana's programs. The efficiency rate of the funds generated exceeds any other program, with a very low administration cost to manage and direct the marketing efforts. The dollar return in direct benefits exceeds a half a billion dollars and the cumulative impact does exceed $2.2 Billion/year to the state of Montana.

These are just a few of the reasons to leave the program alone, but they are ones that should make fiscal sense to you as a legislator. The tourism industry and Travel Montana are cognizant of the responsibility that was created by the Bed Tax and it's importance to the economy of Montana. We have and will continue to be worthy of the trust you have placed upon us. We are aware of the uniqueness of the partnership that was created by this tax at the request of an industry. We hope that by honoring that pact and the success that it has brought to the economy of this great state in many ways, other industries will find ways to create workable trusting partnerships with the state and step up to the plate. Please continue to honor that pact and do not remove the statutory appropriation of the bed tax and it's effective uses. It is not broke! Please do not try to fix it! Remove the bed tax from SB 83. Thank you!

MONTANA INN KEEPERS ASSOCIATION

XI 2

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 12
DATE 1/19/95
BILL NO. SB 83

TESTIMONY
SB 83 - SENATE FINANCE & CLAIMS
JANUARY 19, 1995

The Montana Innkeepers Association has reviewed SB 83 and is opposed to the section which would divert the tax to the General Fund and eliminate the statutory language which directs how the tax is allocated.

The passage of this bill as it stands now, would have far reaching implications and could greatly impact our state's ability to attract tourist. Members of the Montana Innkeepers and proud of their efforts in 1987 to help create the Bed Tax. The revenue that it has generated has been used wisely and as a result the Montana Tourism Industry is the only industry to show significant growth in the last several years.

Our organization is also pleased that the Governor's Tourism Advisory Council, along with several tourism leaders, are looking at new ways to improve how to Bed Tax Collections are spent. For example, we support the Tourism Advisory Council's new three point plan to refocus some of the Bed Tax Collections on, #1 - Creating a grants program for tourism-related infrastructure, such as visitor facilities, #2 - Designing and implementing a new and more efficient customer service program that will work to connect tourist with private services all across Montana, # 3 - The idea to provide more funds to rural communities who have completed the Tourism Assessment Program.

In all the Bed Tax has worked for the purpose it was intended. Further the industry along with the Governor's Tourism Advisory Council is looking down the road and bringing forth changes to encourage economic development throughout the state. Thank you for the opportunity to provide these comments.

Ann Shaw
#13

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 13
DATE 1/19/95
BILL NO. SB 83

MONTANA ALFALFA SEED COMMITTEE

Financial Statement
June 30,1994

Cash in Treasury		6,030.22	
STIP balance		57,600.00	
BEGINNING CASH (July 1, 1993)		$63,630.22	$45,598.11
EXPENSES	**FY 94** Budget	**FY 94** Actual	**FY 95** Budget
Personal services	10,789.00	2,396.19	12,333.00
Operating expenses			
Contracted services		15,790.00	15,925.00
Other services	16,155.00	414.71	
Supplies/materials	7.00	-0-	10.00
Communications	1,405.00	710.43	1,405.00
Travel	3,314.00	2,896.70	3,314.00
Rent	640.00	650.00	700.00
Repair & maintainance			300.00
Other expenses (conf fees)	127.00	252.00	
Prior Year Expense Adj.		19.25	
Indirect expenses		1,861.00	
Accruals (FY 93)		7,998.30	
Accruals (FY 94)		(8,958.79)	
Ag Statistics		947.00	
Total Expenses	$32,437.00	$24,976.79	$33,987.00
REVENUE (FY 94)		$6,944.68	
Ending balance			
Cash in treasury		479.84	
STIP balance		46,700.00	
Fiscal Year End Adjustment		(1,581.73)	
Total (June 30, 1994)		$45,598.11	

Anticipated Expenses

Indirect Costs FY95= $1,886.00

MONTANA ALFALFA SEED COMMITTEE
Montana Department of Agriculture
Helena, Montana

A summary of Income vs. expenditures beginning with the 1987 Fiscal Year through FY '94. The committee was officially authorized during the 1981 Montana Legislative session, with the passage of the ALFALFA SEED INDUSTRY Act.

Fiscal Year	Income	Expenditures
1994	$ 6,944.68	$24,976.79
1993	22,904.65	22,613.11
1992	36,682.00	13,836.19
1991	34,486.93	12,468.38
1990	10,351.42	7,198.45
1989	27,560.54	5,486.82
1988	15,232.08	5,135.59
1987	8,338.84	13,781.16

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 14
DATE 1/19/95
BILL NO. SB 83
Montana State Library

CST PAYMENTS TO FEDERATIONS
FY 95

NOVEMBER 21, 1994

	PMTS TO FEDERATS
TOTAL RECEIPTS:	89,916.00
State Library Share:	0.00
BALANCE FOR FEDERATIONS	89,916.00
Less: Excess over $250,000	0.00
	89,916.00

DISTRIBUTION TO FEDERATIONS:

	Tamarack	Path-finder	Broad Valleys	Sage-brush	South Central	Golden Plains	Total
50% DIVIDED EQUALLY= 44,958.00	7,493.00	7,493.00	7,493.00	7,493.00	7,493.00	7,493.00	44,958.00
50% DIVIDED BY POPULATION= 44,958.00							
0.2538	11,410.34						11,410.34
0.1825		8,204.84					8,204.84
0.2351			10,569.63				10,569.63
0.0811				3,646.09			3,646.09
0.2038					9,162.44		9,162.44
0.0437						1,964.66	1,964.66
	18,903.34	15,697.84	18,062.63	11,139.09	16,655.44	9,457.66	89,916.00

FEDERATION HEADQUARTERS LIBRARIES OF THE MONTANA FEDERATIONS OF LIBRARIES

Mont State Library

SENATE FINANCE AND CLAI
EXHIBIT NO. 15
DATE 1/19/95
BILL NO. SB 83

BROAD VALLEYS FEDERATION

Deborah Schlesinger
Federation Coordinator
Lewis & Clark Public Library
120 South Last Chance Gulch
Helena, MT 59601
Phone: 406-442-2380
Fax: 406-442-2476
Internet Address: dschlesi@wln.com

GOLDEN PLAINS FEDERATION

Emory Robotham
Federation Coodinator
Glasgow City County Library
408 3rd Avenue South
Glasgow MT 59230-2498
Phone: 406-228-2731
Fax: 406-228-8193
Internet Address: gccl-ref@wln.com

PATHFINDER FEDERATION

Jim Heckel
Federation Coodinator
Great Falls Public Library
301 2nd Avenue North
Great Falls MT 59401-2593
Phone: 406-453-0349
Fax: 406-453-0181

SAGEBRUSH FEDERATION

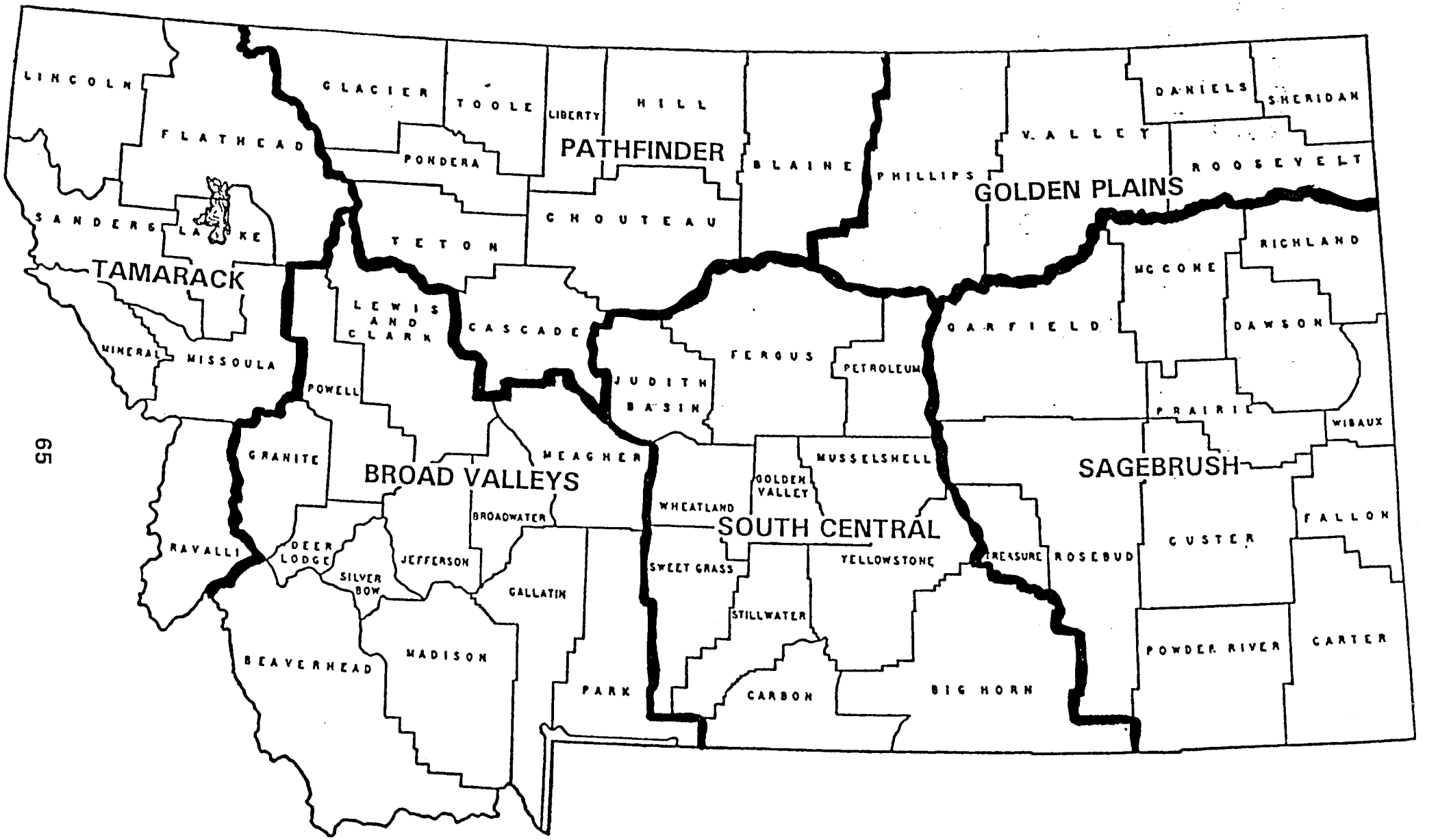
Delores Drennen
Federation Coodinator
Miles City Public Library
1 South 10th Street
Miles City MT 59301-3398
Phone: 406-232-1496
Fax: 406-232-2095

SOUTH CENTRAL FEDERATION

William Cochran
Federation Coodinator
Parmly Billings Library
510 North Broadway
Billings MT 59101-1196
Phone: 406-657-8257
Fax: 406-657-8293
Internet Address: scfol@wln.com

TAMARACK FEDERATION

David Pauli
Federation Coodinator
Missoula Public Library
301 East Main
Missoula MT 59802-4799
Phone: 406-721-2665
Fax: 406-728-5900



MONTANA FEDERATIONS OF LIBRARIES

MONTANA FEDERATIONS OF LIBRARIES

BROAD VALLEYS FEDERATION

Beaverhead County
- Dillon City Library

Broadwater County
- Townsend, Broadwater School/Community Library

Deer Lodge County
- Anaconda, Hearst Free Library

Gallatin County
- Belgrade Public Library
- Bozeman Public Library
- Manhattan Community Library
- Three Forks Community Library
- West Yellowstone Public Library

Granite County
- Drummond Public Library
- Philipsburg Public Library

Jefferson County
- Boulder Community Library
  - Whitehall, John Gregory Memorial Library

Lewis & Clark County
- Helena, Lewis & Clark Library (HEADQUARTERS LIBRARY)
  - Augusta Community Library
  - Lincoln Community Library

Madison County
- Ennis, Madison Valley Public Library
- Sheridan Public Library
- Twin Bridges Public Library
- Virginia City, Thompson-Hickman County Library

Meagher County
- White Sulphur Springs, Meagher County Library

Park County
- Livingston-Park County Library

Powell County
- Deer Lodge, William K. Kohrs Memorial Library

Silver Bow County
- Butte, Butte-Silver Bow Public Library

GOLDEN PLAINS FEDERATION

Daniels County
- Scobey, Daniels County Library

Phillips County
- Malta, Phillips County Library
  - Dodson Branch Library
  - Saco Branch Library

Roosevelt County
- Wolf Point, Roosevelt County Library
  - Bainville Branch Library
  - Culbertson Branch Library
  - Froid Branch Library
  - Poplar Branch Library

Sheridan County
- Plentywood, Sheridan County Library

Valley County
- Glasgow City-County Library (HEADQUARTERS LIBRARY)
  - Opheim Community Library

PATHFINDER FEDERATION

Blaine County
- Chinook, Blaine County Library
- Harlem Public Library

Cascade County
- Belt Public Library
- Cascade, Wedsworth Memorial Library
- Great Falls Public Library (HEADQUARTERS LIBRARY)

Chouteau County
- Fort Benton, Chouteau Co. Free Library
  - Big Sandy Branch Library
  - Geraldine Branch Library
  - Highwood Branch Library

Glacier County
- Cut Bank, Glacier County Library
  - Browning Branch Library
  - East Glacier Branch Library

Hill County
Havre-Hill County Library

Liberty County
Chester, Liberty County Library

Pondera County
Conrad Public Library
Valier Public Library

Teton County
Choteau Public Library
Dutton Public Library
Fairfield Public Library

Toole County
Shelby, Toole County Library
Sunburst, North Toole Co. Branch Library

SAGEBRUSH FEDERATION

Carter County
Ekalaka Public Library

Custer County
Miles City Public Library
(HEADQUARTERS LIBRARY)

Dawson County
Glendive Public Library
Richey Branch Library

Fallon County
Baker, Fallon County Library

Garfield County
Jordan, Garfield County Free Library

McCone County
Circle, George McCone Memorial County Library

Powder River County
Broadus, Henry Malley Memorial Library

Prairie County
Terry, Prairie County Library

Richland County
Sidney Public Library

Rosebud County
Forsyth, Rosebud County Library
Colstrip, Bicentennial Library

Wibaux County
Wibaux Public Library

SOUTH CENTRAL FEDERATION

Big Horn County
Hardin, Big Horn County Library

Carbon County
Bridger Public Library
Joliet Community Library
Red Lodge Carnegie Library

Fergus County
Denton Public Library
Lewistown City Library
Moore Memorial Library

Judith Basin County
Stanford, Judith Basin County Free Library

Musselshell County
Roundup Community Library

Petroleum County
Winnett, Petroleum County Communit
Library

Stillwater County
Columbus, Stillwater County Library

Sweet Grass County
Big Timber, Carnegie Public Library

Wheatland County
Harlowton Public Library

Yellowstone County
Billings, Parmly Billings Library
(HEADQUARTERS LIBRARY)
Worden, Sunnyside Library
Laurel Public Library

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DATE 1-19-95
SB 83

TAMARACK FEDERATION

Flathead County
- Kalispell, Flathead County Library
  - Bigfork Branch Library
  - Columbia Falls Branch Library
  - Marion Branch Library
  - Whitefish Branch Library

Lake County
- Arlee, Jocko Valley Public Library
- Polson City Library
- Ronan City Library
- St. Ignatius Public Library
- Swan Lake Library

Lincoln County
- Libby, Lincoln County Public Library
  - Eureka Branch Library
  - Troy Branch Library

Mineral County
- Superior, Mineral County Library
  - Alberton Branch Library
  - St. Regis Branch Library

Missoula County
- Missoula, Missoula Public Library
(HEADQUARTERS LIBRARY)
  - Condon, Swan Valley Branch Library
  - Seeley Lake Branch Library

Ravalli County
- Darby Public Library
- Hamilton, Bitterroot Public Library
- Stevensville Public Library

Sanders County
- Heron, Laurie Hill Library
- Hot Springs Public Library
- Plains Public Library
- Thompson Falls Public Library

SENATE FINANCE AND CLAIM
EXHIBIT NO. 15 a
DATE 1/19/95
BILL NO. SB 83

Testimony of Deborah L. Schlesinger,

SB83, Senate Finance and Claims Committee,

January 19, 1995

Mr. Chairman for the record, my name is Deborah Schlesinger, I am a member of the Governmental Affairs Committee of the Montana Library Association and I am speaking in opposition to SB83 I am also the Federation Coordinator of the Broad Valley's Library Federation which is a recipient of earmarked Coal Severance Tax funds distributed by The State Library Commission.Library Federations have made extraordinary use of the steadily dwindling Coal Severance Tax funds that we receive. We have used it to fund resource sharing, grants to libraries to buy new materials ,provide electronic access, continuing education,to buy equipment, and for all kinds of cooperative projects across the State.Among the State Wide projects that we have funded are an Interactive Video Conference, and a Technology Fair. What was once over 85,000 dollars of CST monies in my Federation has reached an all time low of 16,196 this past year.. But we have managed to work wonders with this money. In our Federation we fund equipment for our 20 libraries, continuing education, recourses to allow cooperative borrowing like Laser Cats and new material purchases , as well as reference and consulting services and a means for Librarians and Trustees to meet at least twice a year for intensive technical training and to air common concerns and solve common problems. The Legislature in its wisdom funded, as part of Access Montana, a base grant to each Library in the Federation of 1000. per Library for Federation activities. This was partly in recognition that the Coal Tax was no longer keeping up with needs. We have managed to use these monies wisely and to the benefit of our patrons. We would

ask that in a time of rising costs, almost stagnant book budgets, and uncertain Federal programs, that you not take this very little bit of much needed and so well used monies from us.In fact the Library Community will be asking for increases in aid to Federations and for a funding of the State Wide Library Card. I urge you to vote against SB83. Thank you.

The Montana Traffic Education Association

Testimony in Opposition to SB83

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 16
DATE 1/19/95
BILL NO. SB 83

presented to

Senate Finance and Claims Committee

January 19, 1995

Mr. Chairman, committee members, for the record my name is Dan Purcell; I live in Senate District ~~##~~ 37 and work in Helena. I've been involved in Traffic Education for over ~~#~~ 6 years.

I would like to register our strong opposition to SB83. We oppose this bill for several reasons not solely because it would eliminate the funds earmarked to the very critical traffic education program.

Currently the state only provides roughly 50% of the funding for traffic education, the remainder comes from local schools, and user fees. The source of the state money is **not** the general fund, but rather a small percentage of traffic fines and drivers licensing fees which is directed into the traffic education account.

Since 1967, traffic education has been funded from a portion of drivers license fees and fines. It seems appropriate to us that these dollars from traffic related revenue sources be re-invested in our youth -- to ensure that young people of today become the safe drivers of tomorrow.

Last year, of the 12,699 students who were eligible to enroll, the Traffic Education Program served 12,246 students. That translates to a participation rate of over 96%. This outstanding level of participation is testimony to the quality of the program.

It is crucial, however, that we maintain equal access to the Traffic Education program. Already in some areas of the state user fees are as high $145.00. If SB83 is passed in its present form, thus eliminating the funds earmarked to the traffic education account, we can expect the user fees to increase by up to 100% or more. The result of such exorbitant fee increases is easily predicted: the program will become one which only the well-to-do student has access. Those student less able to afford the higher fees will be left with no recourse, but to take to the highways, avenues, and boulevards of our fine state without the benefit and protection of thorough education on how to be safe, intelligent, and law abiding drivers.

Research shows that young people who complete a quality driver education program have fewer and less costly accidents. In addition, they are more likely to buckle up and less likely to drink and drive. Drivers education programs make the streets safer for all of us, this demonstrated by the fact that many insurance companies, based on their actuarial analyses offer discounts to students who successfully complete a certified driver education course. Driver education is much more than learning to steer, start, and stop a vehicle. It includes the study of human factors', analysis of the driving task, development

SENATE FINANCE AND CLAIM
EXHIBIT NO. 7
DATE 1/19/95
BILL NO. SB 83

Mr. Chairman + Members of the Committee

For the record my name is Tom Ebzery, an attorney from Billings and I appear today in opposition to Sec 8 of SB 83 by Senator Grosfield. This legislation addresses earmarking of funds which admittedly has been overused in Mt and other states. My comments are focused on only 1 section of the bill (8) which addresses the lodging or accomodations tax.

The Montana Airport Management Association itself and as a member of the Montana Tourism Coalition takes the strong position that the Accommodations Tax revenue should not be "de-earmarked". We point to the valuable role that the specified uses of this tax have played in the growth and in the broad economic impact of the tourism industry in the state. This certainly

EXHIBIT 16
DATE 1-19-95
SB 83

of proper visual / perceptual techniques; and practice in critical thinking and decision making necessary to safe driving behavior.

In closing, I would like to reiterate that Traffic Education is an integral part of our public school's vocational and practical arts curriculum. To eliminate state support for this program, thus causing participation in the program to become contingent on a student's family's ability to pay a user fee -- is to do a great injustice to the youth of this state. Traffic Education is **not** funded by state tax revenue, but it is funded a by small portion of motor vehicle fines, and driver's license fees. The state should continue to re-invest this collected money in our youth.

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 18
DATE 1/19/95
BILL NO. SB 83

January 17, 1995

Sen. Greg Jergeson
Democrat / Chinook

Dear Sen. Jergeson:

Your support of de-earmarking the "bed tax" to the general fund, has raised much discussion among those of us in the hospitality industry. Foremost, we question your suggestion that "it's time to do something different with the state's 4 percent bed tax".

Created in 1987 the bed tax has made non resident tourist a 2.4 billion dollar contributor to our state's annual economy. Further tourism provides over 33,000 jobs, and generates an annual payroll in Montana that exceeds $700 million. On top of these outstanding figures is the fact that tourism is a clean industry.

Many of us in the hospitality industry agree that directing the entire bed tax into the General Fund is like pouring the money into a black hole. But your suggestion that the lion's share go towards tourism-related infrastructure is misguided. The reason, like all successful business operations the key is marketing, marketing, and marketing. Clearly, if we want tourist to continue bringing their dollars to Montana, which in turn support the businesses that pay the tax bills, the water bills, and make payroll for local residents, then we need to continue our promotional efforts.

Yes, the bed tax has been successful in making tourism the fastest growing industry in our state. But diverting the tax to other uses would be a short-sighted thing to do. Tourism numbers have greatly leveled off in the last two years, and a change to dilute the current marketing plan would work to diminish what is now Montana's only thriving industry.

Sincerely,

Sherrill K. Tedder

Sherrill K. Tedder, President

Missoula Hospitality Association

DATE January 19, 1995

SENATE COMMITTEE ON Finance & Claims

BILLS BEING HEARD TODAY: SB 27

SB. 83 Senator Grosfield

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Oppose
Nancy Silliman	Mont. Library Assn.	83		✓
Mike Lahr	MLA	83		✓
Greg Bryan	Montana Tourism Coalition	83		✓
Candace Torgerson	Montana Innkeepers	83		✓
Eric Feaver	MEA	83		✓
Steve Tollemus	Missoula Chamber	83		✓
Maureen Averill	Flathead Lake Lodge	83		✓
Michael Jaworski	Missoula Chamber of Commerce	83		✓
Larry McRae	Outlaw Inn, Kansas	83		✓
Kathy Fabiano	ODI	83		✓
Ken Hoovestol	MT. Snowmobile Assn / MT. Boating Assn.	83		✓
Brad Griffith	MT Retail Assoc	83		✓
Tom Ebzery	MT Airport Management Assn	83		✓
Dan Purcell	MT Traffic Ed. ass			

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE January 19 1995

SENATE COMMITTEE ON Finance & Claims

BILLS BEING HEARD TODAY: SB 27 Senators Grosfield & (illegible)
SB 83 Senator Grosfield

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Oppose
Robert Dunlop	myself	83		✓
James H. Mular	L & V	83	✓	
Kevin J. Cobb	Tourism			Vetoed
Beth Baker	Dept of Justice	83	✓ w/ amend.	
GENE FISER	MBCC			
DEBORAH SCHLESINGER	MT LIBRARY ASS.	83		✓
CONNIE KENNEY	Butte CHAMBER GOLD WEST COUNTRY	83		✓
Bruce Parker	Butte Chamber	83		
Peggy Luchia	MTA Mt. St. Lib Comm	83		✓
Gwin NUNN	Helena Chamber	83		✓
Michael Steele	motels of America	83		✓
Richard Miller	State Library	83		✓
Darlene Staffeldt	" "			✓
Gordon F. Stiner	MT Hospital Svcs Comm	83		✓

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE January 19, 1995

SENATE COMMITTEE ON Finance & Claims

BILLS BEING HEARD TODAY: SB 27
SB 83 Senator Grosfield

< ■ > PLEASE PRINT < ■ >

Name	Representing	Bill No.	Check One: Support	Oppo
Pooa Abelin	MTVRA	83		~
Stuart Doggett	MT Innkeepers Assoc.	83		~
Linda Reed	Gov's office	83	~	
David Owen	MT Chamber	83		~
Mike Volesky	MT Assoc. of Conservation Districts	83	~	
Chris Imhoff	League of Women Voters of MT	83	~	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

EXECUTIVE ACTION ON HOUSE BILL 43

Motion: **SENATOR BECK MOVED HOUSE BILL 43 BE CONCURRED IN.**

Discussion: **SENATOR WATERMAN** asked why a budget amendment was needed between now and October.

SENATOR LYNCH said it was easier for the Code Commissioner if they have the normal date.

SENATOR KEATING said the bill facilitates the cash flow for their enterprises; they need to buy goods spontaneously as they never know what their sales are going to be.

SENATOR SWYSGOOD said page 2, line 19 says a budget amendment that is submitted to the legislature for approval during a legislative session may not include authority to spend money beyond the first fiscal year of the next biennium, which is probably why they want it effective on passage and approval. A budget amendment might not include that authority.

SENATOR AKLESTAD said that would be the gap between July and October.

Clayton Schenck said there was a change in the budget amendment law in the last biennium concerning emergency appropriations.

Vote: Motion **CARRIED.**

EXECUTIVE ACTION ON SENATE BILL 83

SENATOR KEATING said he talked to the Department of Agriculture about the Growth Through Agriculture Act and ascertained they needed money for grain marketing in the department, but they are not interested in the grants from the coal tax. He explained that he does not believe coal tax money should be given to private organizations in the form of grants. There are other funds that businesses can borrow from and other areas of grants to universities.

Motion/Vote: **SENATOR KEATING MOVED THAT WE RECONSIDER ACTION ON SENATE BILL 83 FOR PURPOSES OF AMENDMENT. MOTION CARRIED.**

Motion: **SENATOR KEATING MOVED TO AMEND SENATE BILL 83. EXHIBIT 1**

Discussion: **SENATOR KEATING** said the effect of the amendment would be that no coal tax money would be going to Montana Growth Through Agriculture. The money would return to the general fund, and then a direct appropriation would be made to Agriculture from the general fund if it was needed for marketing, which would be about $250,000 to $500,000.

SENATOR WATERMAN said she was against the amendment.

SENATOR SWYSGOOD asked if it would automatically flow to the general fund.

SENATOR KEATING said it would. He also said that on page 9 of the bill the Growth Through Agriculture is struck from the statutory appropriation so that money will automatically go to the general fund.

SENATOR JACOBSON said if it gets appropriated to one of the other programs, it would not. Growth Through Agriculture is still on the books.

SENATOR KEATING said it is not being eliminated, and it is funded out of a different special account. If they want to get rid of the program, it will have to be repealed at some point.

SENATOR JACOBSON asked **SENATOR KEATING** if it was his intention to eliminate the program.

SENATOR KEATING said yes.

SENATOR JACOBSON questioned if the committee should have a bill drafted to do that.

SENATOR KEATING said if the committee was willing, that would be the best procedure.

SENATOR FRANKLIN said she felt additional testimony was needed on this issue.

SENATOR JERGESON resisted the motion. He said although the Department of Agriculture may be willing to give up the Montana Growth Through Agriculture Act, he is not convinced that the farm coalition, made up of all the farm groups in the state of Montana is prepared to give it up. They feel the program hasn't been as effective as it could be because so much of the money has been siphoned off and put into other programs.

SENATOR AKLESTAD said the motion before the committee now is to change the funding mechanism. A special committee bill would be needed to eliminate the program and at that time **SENATOR FRANKLIN'S** concern would be addressed.

SENATOR WATERMAN said this would lower the percentage by 2 percent. She voiced concern that they are not just striking Montana Growth Through Agriculture; they are lowering the percent from 22 to 20 percent.

SENATOR KEATING said on page 9, line 3, **SENATOR GROSFIELD** has added up all of the coal tax money that is being struck from the library, conservation districts, Growth Through Agriculture, etc. They are then lumped together above and given the total of coal

tax money that was appropriated into a lump sum. Because we are taking the 2 percent out, we have reduced the lump from 22 to 20 percent. The others are still dividing the amount of statutory appropriation that they had previously.

Vote: **SENATOR KEATING'S** motion **CARRIED** with Senators **TVEIT, WATERMAN, JENKINS, JERGESON AND FRANKLIN** opposed.

Motion: **SENATOR KEATING MOVED SENATE BILL 83, AS AMENDED, DO PASS.**

Vote: The motion **CARRIED** with **SENATORS JENKINS, LYNCH, WATERMAN** and **MOHL OPPOSED.**

Motion: **SENATOR JACOBSON MOVED THAT THE COMMITTEE ASK FOR A BILL DRAFT REQUEST FOR A REPEAL OF THE GROWTH THROUGH AGRICULTURE PROGRAM.**

Discussion: **SENATOR AKLESTAD,** explaining the motion, said there is statutory language that would take Growth through Agriculture out. A hearing would be held on a bill, which would cover Senator Franklin's concerns. He added that it takes a two-thirds vote for a committee bill.

Vote: **SENATOR JACOBSON'S** motion **CARRIED** on a roll call vote. **SENATORS JERGESON, FRANKLIN, TVEIT AND JENKINS** voting no.

ADJOURNMENT

Adjournment: 8:00 a.m.

SENATOR GARY AKLESTAD, Chairman

LYNN STALEY, Secretary

GA/ls

MONTANA SENATE
1995 LEGISLATURE
FINANCE AND CLAIMS COMMITTEE

ROLL CALL DATE 1/28/95

NAME	PRESENT	ABSENT	EXCUSED
SWYSGOOD, CHUCK	✓		
BURNETT, JIM	✓		
MOHL, ARNIE	✓		
JERGESON, GREG	✓		
FRANKLIN, EVE	✓		
TVEIT, LARRY	✓		
JENKINS, LOREN	✓		
JACOBSON, JUDY	✓		
LYNCH, J.D.	✓		
HARDING, ETHEL	✓		
TOEWS, DARYL excused			✓
CHRISTIAENS, B.F. "CHRIS"	✓		
WATERMAN, MIGNON	✓		
KEATING, TOM - VICE CHAIRMAN	✓		
BECK, TOM	✓		
AKLESTAD, GARY - CHAIRMAN	✓		

SEN:1995
wp.rollcall.man

SENATE STANDING COMMITTEE REPORT

January 29, 1995

MR. PRESIDENT:
We, your committee on Finance and Claims having had under consideration SB 83 (first reading copy -- white), respectfully report that SB 83 be amended as follows and as so amended do pass.

Signed: _____
Senator Gary Aklestad, Chair

That such amendments read:

1. Title, line 11.
Strike: "44-12-206,"

2. Title, line 12.
Following: "61-4-112,"
Insert: "61-5-121,"

3. Title, line 16.
Strike: "AN"
Strike: "DATE"
Insert: "DATES"

4. Page 2, line 1.
Following: "be"
Strike: "paid by the superintendent of public instruction"
Following: "~~account~~"
Insert: "appropriated to the department from the state general fund"

5. Page 2, line 21.
Following: second "the"
Insert: "expenses listed in subsection (1)(f) and, to the extent that funds remain, the"

6. Page 2, line 25.
Strike: "to" through the second "and"

7. Page 2, line 28.
Following: "~~and~~"
Insert: "the appellate defender commission and the office of appellate defender must be funded first and"

8. Page 7, line 11.
Strike: "22%"
Insert: "20%"

Amd. Coord.
Sec. of Senate

9. Page 7, line 18.
Following: "networking,"
Insert: "and"

10. Page 7, lines 18 and 19.
Page 8, lines 21 and 22
Following: "districts" on lines 18 and 21
Strike: ", and the Montana Growth Through Agriculture Act"

11. Page 8, line 14.
Strike: "22%"
Insert: "20%"

12. Page 8, line 21.
Following: "networking,"
Insert: "and"

13. Page 9, line 11.
Following: "Deposit"
Insert: "and use"

14. Page 9, lines 13 through 16.
Strike: "general" on line 13
Insert: "special revenue"
Strike: "The" on line 13 through "tax." on line 16

15. Page 10, line 20.
Following: "~~section.~~"
Insert: "Before allocating the tax proceeds in accordance with the provisions of 15-1-501(6), the department of revenue shall determine the expenditures by state agencies for in-state lodging for each reporting period and deduct 4% of that amount from the tax proceeds received each reporting period. The amount deducted must be deposited in the general fund. The balance of the tax proceeds received each reporting period and not deposited in the general fund must be deposited in the state special revenue account to be allocated by the legislature for the following:

(1) tourism promotion and promotion of the state as a location for the production of motion pictures and television commercials;

(2) distribution to regional nonprofit tourism corporations;

(3) establishment and maintenance of a Montana travel research program;

(4) maintenance of facilities in state parks;

(5) installation or maintenance of roadside historical signs and historic sites; and

(6) collection of the tax."

16. Page 15, lines 10 and 11.
Following: "appropriated" on line 10
Strike: "the revenue from an account"

17. Page 15, line 11.
Following: "~~31-1-602~~"
Strike: "terminated pursuant to legislative review"
Insert: "revenue from sources de-earmarked by the legislature"

18. Page 15, line 14.
Strike: "pursuant to legislative review"
Insert: "by the legislature"

19. Page 20, line 25.
Following: "~~44-12-206;~~"
Insert: "44-12-206;"

20. Page 20, line 26.
Strike: "75-5-507;"

21. Page 22, line 22.
Page 23, line 19.
Following: "~~foundation~~"
Strike: "BASE aid amount"
Insert: "per-ANB entitlement"

22. Page 29, line 7.
Following: "means"
Strike: "the account in the state special revenue fund that receives"

23. Page 29, line 8.
Following: "section"
Strike: "plus any legislative appropriation of money from other sources"

24. Page 32, lines 10 and 11.
Following: "is" on line 10
Strike: remainder of line 10 through "instruction" on line 11

25. Page 32, line 25.
Strike: "The"
Following: "~~the~~"
Strike: "department may use appropriations for enforcement of this part"

26. Page 32, line 26.
Strike: "."

27. Page 33, line 1.
Strike: "Use"
Insert: "Deposit"

28. Page 33, lines 4 and 5.
Following: "~~the~~" on line 4
Strike: "The department"
Following: "~~only~~" on line 4
Strike: "may use appropriations for snowmobile safety and education."

29. Page 36, lines 11 and 12.
Following: "fund"
Strike: "for distribution as state equalization aid to the public schools of Montana"

30. Page 42, line 1 through page 42, line 30.
Strike: Section 49 in its entirety.
Renumber: subsequent sections

31. Page 46, line 20.
Following: line 19
Insert: "**Section 54.** Section 61-5-121, MCA, is amended to read:

"**61-5-121. Disposition of fees.** (1) The disposition of the fees from driver's licenses provided for in 61-5-111(7)(a), motorcycle endorsements provided for in 61-5-111(7)(b), commercial driver's licenses provided for in 61-5-111(7)(c), and duplicate driver's licenses provided for in 61-5-114 is as follows:

(a) The amount of 25% of each driver's license fee and of each duplicate driver's license fee must be deposited into an account in the state special revenue fund. The department shall transfer the funds from this account to the Montana highway patrol officers' retirement pension trust fund as provided in 19-6-404.

(b) (i) If the fees are collected by a county treasurer or other agent of the department, the amount of 3.75% of each driver's license fee and of each duplicate driver's license fee must be deposited into the county general fund.

(ii) If the fees are collected by the department, the amount provided for in subsection (1)(b)(i) must be deposited into the general fund.

(c) (i) If the fee is collected by a county treasurer or other agent of the department, the amount of 5% of each motorcycle endorsement must be deposited into the county general

fund.

(ii) If the fee is collected by the department, the amount provided for in subsection (1)(c)(i) must be deposited into the general fund.

(d) The amount of ~~8.75%~~ 35% of each driver's license fee and of each duplicate driver's license fee must be deposited into the state traffic education account.

(e) In addition to the amounts deposited pursuant to subsections (1)(b)(ii) and (1)(c)(ii), the amount of ~~62.5%~~ 36.25% of each driver's license fee and of each duplicate driver's license fee must be deposited into the state general fund.

(f) If the fee is collected by the county treasurer or other agent of the department, the amount of 3.75% of each commercial driver's license fee must be deposited into the county general fund, otherwise all of the fee must be deposited in the state general fund.

(g) The amount of 95% of each motorcycle endorsement fee must be deposited into the state traffic education account in the state special revenue fund.

(2) (a) If fees from driver's licenses, commercial driver's licenses, motorcycle endorsements, and duplicate driver's licenses are collected by a county treasurer or other agent of the department, the county treasurer or agent shall deposit the amounts provided for in subsections (1)(b)(i) and (1)(c)(i) into the county general fund. The county treasurer or agent shall then remit to the state treasurer all remaining fees, together with a statement indicating what portion of each fee is to be deposited into the account in the state special revenue fund as provided in subsection (1)(a) and the state general fund. The state treasurer, upon receipt of the fees and statement, shall deposit the fees as provided in subsections (1)(a) and (1)(d) through (1)(g).

(b) If fees from driver's licenses, commercial driver's licenses, motorcycle endorsements, and duplicate driver's licenses are collected by the department, it shall remit all fees to the state treasurer, together with a statement indicating what portion of each fee is to be deposited into the account in the state special revenue fund as provided in subsection (1)(a), the state special revenue fund, and the state general fund. The state treasurer, upon receipt of the fees and statement, shall deposit the fees as provided in subsections (1)(a), (1)(b)(ii), (1)(c)(ii), and (1)(d) through (1)(g).""

Renumber: subsequent sections

32. Page 57, line 29.
Following: Line 28

Insert: "NEW SECTION. **Section 79. Coordination.** Effective on passage and approval, agencies whose budgets are affected shall submit amendments to House Bill No. 2 to reflect the proper funding of activity."

Renumber: subsequent sections

33. Page 58, line 8.
Strike: "date"
Insert: "dates"
Strike: "[This act] is"
Insert: "(1) [Section 79 and this section] are effective on passage and approval.
(2) [Sections 1 through 78, 80, and 81] are

MONTANA SENATE
1995 LEGISLATURE
FINANCE AND CLAIMS COMMITTEE
ROLL CALL VOTE

DATE 1/28/95 BILL NO. _____ NUMBER _____

MOTION: Senator Jacobson motion - ask for bill draft request for repeal of Growth through Agriculture program

NAME	AYE	NO
SWYSGOOD, CHUCK	✓	
BURNETT, JIM	✓	
MOHL, ARNIE	✓	
JERGESON, GREG		✓
FRANKLIN, EVE		✓
TVEIT, LARRY		✓
JENKINS, LOREN		✓
JACOBSON, JUDY	✓	
LYNCH, J.D.	✓	
HARDING, ETHEL	✓	
TOEWS, DARYL excused		
CHRISTIAENS, B.F. "CHRIS"	✓	
WATERMAN, MIGNON	✓	
KEATING, TOM - VICE CHAIRMAN	✓	
BECK, TOM	✓	
AKLESTAD, GARY - CHAIRMAN	✓	

SEN:1995

Amendments to Senate Bill No. 83
Introduced Copy

Requested by Senator Keating
For the Committee on Senate Finance and Claims

Prepared by Roger Lloyd
January 27, 1995

SENATE FINANCE AND CLAIMS
EXHIBIT NO. 1
DATE 1/28
BILL NO. SB 83

1. Page 7, line 11.
Strike: "22%"
Insert: "20%"

2. Page 7, line 18.
Following: "networking,"
Insert: "and"

3. Page 7, lines 18 and 19.
Following: "districts"
Strike: ", and the Montana Growth Through Agriculture Act"

4. Page 8, line 14.
Strike: "22%"
Insert: "20%"

5. Page 8, line 21.
Following: "networking,"
Insert: "and"

6. Page 8, lines 21 and 22.
Following: "districts"
Strike: ", and the Montana Growth Through Agriculture Act"

HEARING ON SB 83

Opening Statement by Sponsor:

SEN. LORENTS GROSFIELD, SD 13, Big Timber, opened the hearing on SB 83 which revises laws concerning dedicated revenue and statutory appropriations. This is a bill to de-earmark certain funds in state government and explains how appropriations would be dealt with in the future. He said the bottom line is that state finances would be simplified and they would be able to more easily monitor and prioritize the state's finances. **SEN. GROSFIELD** said a study had been conducted by the Legislative Finance Committee in the last legislative session and this bill is a result of that study. He summarized parts of the bill: Section 2 deals with state appropriations of district court expenses; Section 3 deals with fines and forfeitures and deposits them into the general fund; Section 4 transfers taxes on livestock from counties to the Department of Livestock; Sections 9-12 deal with highway revenue accounts; Section 34 deals with the state equalization account. The intent is that appropriations will be added to HB 2 to replace the statutory appropriations and de-earmarked funds proposed to be eliminated, including amounts for the state's share of K-12 education expenditures.

Proponents' Testimony:

None.

Opponents' Testimony:

Mike Lahr, Montana Library Association, handed out an amendment that dealt with Section 7. Their concerns are that the resources of the libraries are funds that trickle down and are limited; they represent only 1% of the remaining amount following the statutory appropriations. For smaller libraries, that may mean their whole budget for the year. To maintain services, they would like the 1% to be reinstated in SB 83.

Debra Schlesinger, Federation Coordinator for Broad Valley's Federation, Helena, said that SB 83 would change the way the federation is funded and they would be required to compete for a smaller amount of money with other agencies that share a percentage of the coal tax. They would like to keep Montanans information-rich, and assure that they have continued access to information. **EXHIBIT 1.**

Richard Miller, State Librarian, Helena, would also like the 1% allocation to the library federations continued. The process of networking in Montana's libraries requires a stable base upon which to build. He is concerned that the most efficient delivery

of information services is provided to the people of Montana. **EXHIBITS 2 and 3.**

Leo Giacometto, Director, Department of Agriculture, Helena, said he was not an opponent of the bill, only opposed to an amendment which strikes the Montana Growth Through Agriculture Act. He said it was the only program in the bill that was entirely de-earmarked.

Jon Noel, Director, Department of Commerce, Helena, also wanted to endorse the testimony of **Mr. Giacometto.**

Lorna Frank, Montana Farm Bureau, said they have 6,000 members across the state of Montana. She agrees with **Mr. Giacometto** and said that the Montana Growth Through Agriculture Act is a good program and should not be eliminated.

Questions From Committee Members and Responses:

REP. ROYAL JOHNSON, HD 10, Billings, asked **SEN. GROSFIELD** why Section 8 is no longer included in the bill. He said that Section 8 de-earmarked the bed tax. After the Senate hearing on SB 83, there were only two or three proponents, but 20 to 30 opponents were against the bed tax being included in the bill.

Closing by Sponsor:

SEN. GROSFIELD said that the bill tries to remove the "sacred cow" status. He said this bill would enable them to scrutinize spending and does not eliminate programs, but shifts funding from the general fund. He said that in 1986, the general fund was $105 million and last year, in 1994, it approached $945 million.

{Tape: 1; Side: A; Approx. Counter: 34.7.}

HEARING ON HB 6

Opening Statement by Sponsor:

REP. ERNEST BERGSAGEL, HD 95, Malta, asked if the committee would be accepting HB 6 in amendment form, called the gray bill, from Long-Range Planning. **CHAIRMAN ZOOK** said it probably was not necessary, but since we would be working on the gray bill, they wanted to do it this way.

REP. BERGSAGEL said this bill appropriates money to the Department of Natural Resources (DNRC) for grants under the Renewable Resource Grant and Loan Program. The grants are listed in priority order. Before any disbursement of funds is allowed,

HOUSE OF REPRESENTATIVES

Appropriations

ROLL CALL DATE 2-15-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Tom Zook, Chairman	✓		
Rep. Ed Grady, Vice Chairman, Majority	✓		
Rep. Joe Quilici, Vice Chairman, Minority	✓		
Rep. Beverly Barnhart	✓		
Rep. Ernest Bergsagel	✓		
Rep. John Cobb	✓		
Rep. Roger DeBruycker	✓		
Rep. Gary Feland	✓		
Rep. Marj Fisher	✓		
Rep. Don Holland	✓		
Rep. John Johnson	✓		
Rep. Royal Johnson	✓		
Rep. Mike Kadas	✓		
Rep. Betty Lou Kasten	✓		
Rep. Matt McCann	✓		
Rep. Red Menahan	✓		
Rep. Steve Vick	✓		
Rep. Bill Wiseman	✓		

EXHIBIT 1
DATE 2-15-95
SB 83

TESTIMONY OF DEBORAH L. SCHLESINGER AGAINST SB83

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, FOR THE RECORD MY NAME IS DEBORAH SCHLESINGER AND I AM FEDERATION COORDINATOR OF THE BROADVALLEY'S FEDERATION.. AS YOU KNOW THE STATE IS DIVIDED INTO 6 LIBRARY FEDERATIONS. BROAD VALLEY'S HAS 20 LIBRARIES . IN 12 COUNTIES. THE HEADQUARTERS LIBRARY, AT THE LEWIS AND CLARK LIBRARY IN HELENA PROVIDES REFERENCE AND BACKUP INTER LIBRARY LOAN SERVICES , CONSULTING SERVICES AND ADMINISTRATIVE SERVICES.

THE BILL BEFORE YOU, SB83 WOULD CHANGE THE WAY THAT OUR FEDERATIONS ARE FUNDED. INSTEAD OF A STABLE, THOUGH DIMINSHING REVENUE SOURCE, THE COAL TAX, WE WOULD BE REQUIRED TO COMPETE FOR A SMALLER POT OF MONEY WITH OTHER AGENCIES THAT PRESENTLY SHARE A PERCENTAGE OF THE COAL TAX. WHY SHOULDN'T WE HAVE TO COMPETE FOR FUNDS IS A QUESTION RIGHTLY ASKED. THE LEGISLATURE IN IT'S WISDOM DECIDED THAT PUBLIC LIBRARY FEDERATIONS WERE A POLITICAL , ECONOMIC, AND SOCIAL GOOD AND CONTRIBUTED TO THE QUALITY OF LIFE FOR MONTANANS. WHEN THEY ALLOTTED A PORTION OF THE COAL TAX FOR FEDERATION ACTIVITIES THEY ACKNOWLEDGED THAT THE STATE HAD A COMPELLING INTEREST IN MAKING SURE THAT IT'S CITIZENS HAD ACCESS TO INFORMATION IN THE MOST COST EFFECTIVE WAYS. FEDERATIONS ARE TRULY COST EFFECTIVE. WE USE ECONOMIES OF SCALE, WE COOPERATE AND WE SHARE RESOURCES. YOU GET A LOT FOR YOUR MONEY AND MONTANANS GET ACCESS TO HIGH TECHNOLOGY, INCREASED COLLECTIONS, EDUCATED AND INFORMED LIBRARIANS AND A HOST OF COOPERATIVE PROJECTS ACROSS THE STATE. WE NEED STABLE AND GUARANTEED FUNDING TO BE ABLE TO CARRY ON THE ONGOING PROGRAMS. WE CANNOT AFFORD TO HAVE THE FEDERATION SYSTEM FAIL BECAUSE IT IS NOT FUNDED ONE BIENNIUM. IT'S LIKE HUMPTY DUMPTY, WE COULDN'T PUT ALL THE PIECES TOGETHER AGAIN.LIBRARIES DON'T TAKE A LOT OF THE COAL TAX,BUT THE PORTION WE NOW HAVE GUARANTEED TO US GOES TOWARDS HELPING TO MAKE ALL MONTANANS INFORMATION RICH. WE ASK THAT YOU LEAVE US THAT GUARANTEE AND ASSURE CONTINUED ACCESS TO INFORMATION FOR OUR CITIZENS. PLEASE VOTE NO ON SB83 AND KEEP THE COAL TAX FUNDING LIBRARIES. THANK.YOU

EXHIBIT 2
DATE 2-15-95
SB 83

Testimony Before the House Appropriations Committee
February 15, 1995

Mr. Chairman, members of the Committee, for the record, my name is Richard Miller. I am Montana State Librarian.

You have heard, or will hear testimony today, concerning reasons why the percentage of Coal Severance Tax monies set aside for Montana's six library federations should be continued. You have also heard arguments for the need for Montana to "de-earmark" monies in order for the Legislature to have increased discretion in the determination of funding for various purposes. Each of you will, of course, draw your own conclusions about these issues.

But let me offer you some arguments for continuing the 1% allocation to Montana's library federations and for networking purposes. First, in 22-1-401 there is a policy statement which reads, "It is the policy of the legislature to encourage the most efficient delivery of library services to the people of Montana. To that end the state should be divided into regions within which libraries desiring to participate in the distribution of such state funding to libraries as may be available from time to time shall organize into library federations to pool resources and information and avoid duplication of effort." [emphasis added]

The Legislature recognized the efficiencies inherent in Montana's federations. I have distributed a list of the federations and their member libraries, as well as a map of the regions and an accounting of the funding for this fiscal year. Each of these federations develops an annual plan of service developed by representative trustees of local public libraries. This plan of service responds to local needs as identified by member libraries. As monies from this source have diminished over the years, each federation has had to "tighten its belt" in order to continue to provide services relevant to its members. Further tightening of the belt will be most difficult, but that is what this bill proposes -- i.e., competing for a smaller pot of money.

The federations, and the process of attempting to establish ongoing networking in Montana requires a stable base upon which to build. These functions do not fear competing for funding, but doesn't it make more sense to establish this base and let them put their efforts into meeting the goal set by the Legislature of "the most efficient delivery of information services to the people of Montana?"

Thank you for your kind attention to my remarks.

FEDERATION HEADQUARTERS LIBRARIES OF THE MONTANA FEDERATIONS OF LIBRARIES

EXHIBIT 3
DATE 2-15-95
SB 83

BROAD VALLEYS FEDERATION

Deborah Schlesinger
Federation Coordinator
Lewis & Clark Public Library
120 South Last Chance Gulch
Helena, MT 59601
Phone: 406-442-2380
Fax: 406-442-2476
Internet Address: dschlesi@wln.com

GOLDEN PLAINS FEDERATION

Emory Robotham
Federation Coodinator
Glasgow City County Library
408 3rd Avenue South
Glasgow MT 59230-2498
Phone: 406-228-2731
Fax: 406-228-8193
Internet Address: gccl-ref@wln.com

PATHFINDER FEDERATION

Jim Heckel
Federation Coodinator
Great Falls Public Library
301 2nd Avenue North
Great Falls MT 59401-2593
Phone: 406-453-0349
Fax: 406-453-0181

SAGEBRUSH FEDERATION

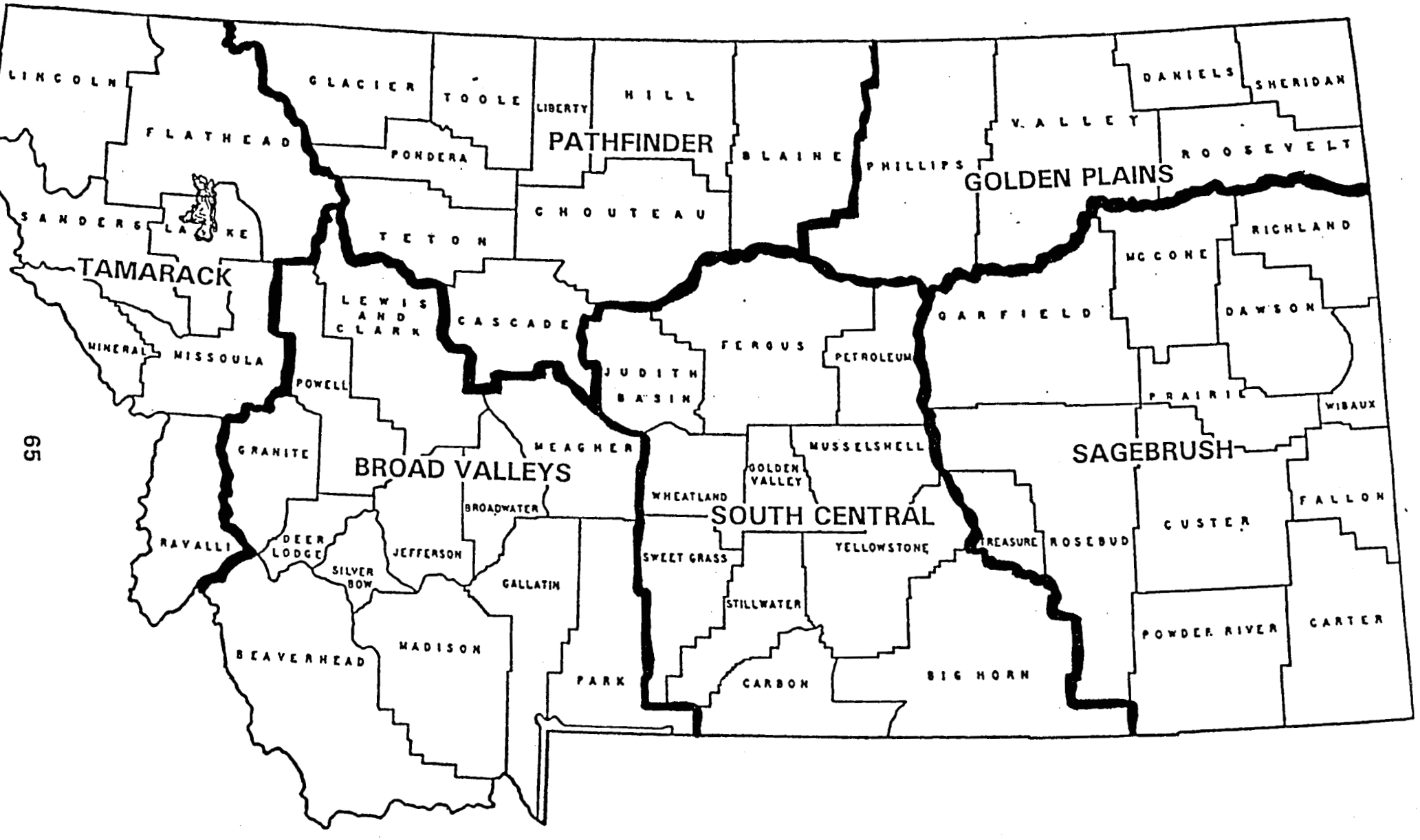
Delores Drennen
Federation Coodinator
Miles City Public Library
1 South 10th Street
Miles City MT 59301-3398
Phone: 406-232-1496
Fax: 406-232-2095

SOUTH CENTRAL FEDERATION

William Cochran
Federation Coodinator
Parmly Billings Library
510 North Broadway
Billings MT 59101-1196
Phone: 406-657-8257
Fax: 406-657-8293
Internet Address: scfol@wln.com

TAMARACK FEDERATION

David Pauli
Federation Coodinator
Missoula Public Library
301 East Main
Missoula MT 59802-4799
Phone: 406-721-2665
Fax: 406-728-5900



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MONTANA FEDERATIONS OF LIBRARIES

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Appropriations COMMITTEE BILL NO. HB6, 7, 8, 9, 11 SB83

DATE 2-15-95 SPONSOR(S)

PLEASE PRINT **PLEASE PRINT** **PLEASE PRINT**

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Richard Fossum Helena	General community	HB-9		X
~~Natalie FITZPATRICK ANACONDA MT~~				
DEBORAH SCHLESINGER	MT LIBRARY ASSOC	SB83	X	
Dave Cole	Mont. Dept. of Commerce Local Govt Assistance	HB11		X
Robb McCracken	"	HB11		X
Jay Russell	C.M. Russell Museum	HB9		X
J. Scott Kall	Helena Symph. Society / MT Assoc. Symph. Orchestras	HB9		X
Carol Novotne	the Helena Art Center	HB9		X
Cecelia Solich	Helena Art Center	HB9		X
Robert M Clark	MT Historical Society	HB9		X
Michael Taylor	Pelrotus Water Ass member	HB 8/		X
Peter Held	Holter Museum of Art	HB9		X
Josie DeWeese	Archie Bray Foundation	HB9		X
Arnie MACINA	Helena Presents / Myrna Loy Center HB9			X

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Appropriations COMMITTEE BILL NO. HB 6, 7, 8, 9, SB 83

DATE 2/15/95 SPONSOR(S)

PLEASE PRINT **PLEASE PRINT** **PLEASE PRINT**

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
Mike Lahr	MT. Library Assoc	SB-83	X	
Harriett Meloy		HB9		X
Judi Tillman		7		
Leonard Wortman		7		X
Gloria Hermanson	MT Cultural Advocacy	HB9		X
Kathy Macefield	MT Preservation Alliance	HB9		X
Jim Tubbs	DNRC	HB 6,7,8		X
Lorna Frank	MT. Farm Bureau	SB83	X	
Ray Beck	DNRC	HB 6,7,8,		X
Richard Miller	State Library	SB83	✓	
Elizabeth Sellers	Helena Symphony	HB9		✓
Mike Volesky	MT Assoc. of Cons. Districts	HB 6,7,8		✓
Melinda Artz Siwiecy	Metis Cultural Recovery	METIS CULTURAL RECOVERY HB9		✓

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

FREE CONFERENCE COMMITTEE ON SENATE BILL 083

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on April 6, 1995, at 6:30 P.M.

ROLL CALL

Members Present:
Sen. Lorents Grosfield (R)
Sen. Judy H. Jacobson (D)
Sen. Charles "Chuck" Swysgood (R)
Rep. Royal C. Johnson (R)
Rep. Betty Lou Kasten (R)
Rep. Beverly Barnhart (D)

Members Excused: None

Members Absent: None

Staff Present: Roger Lloyd, Legislative Fiscal Analyst
Judy J. Keintz, Committee Secretary

Discussion: **CHAIRMAN LORENTS GROSFIELD** presented the amendments, **EXHIBIT 1.**

Roger Lloyd explained amendments 1 and 5. Amendment 1 amended the title. Amendment 5 added a section to the bill which was forgotten when the House Appropriations de-earmarked the nursing home bed fees called the utilization fee for bed days in nursing facilities. Amendment 5 is a new section striking reference to that particular account.

Amendment 2 added the words "and the cost of administering this section". When the amendment re-instating the statutory appropriation for district court fees was written, it struck language authorizing that the funds could be used for costs of administering the program. This amendment re-inserts the language which is needed so the revenue may be spent for that particular purpose.

Amendments 3 and 4 adds the sentence, "Any cash balance that is unspent at the end of each fiscal year must be deposited in the general fund." The cash balance is the combined account which was created by the coal severance tax allocation. Currently there are four allocations which are combined into one state special revenue account. One of those allocations was the coal impact account. SB 83, page 63, (3) struck the same language which is put back in by amendments 3 and 4, which is that the

unexpended balance in the local impact account revert to the state equalization aid. Without this amendment, any unspent cash balance which went to the SEA because it went into the local impact account, would now build up into this combined account. It would not revert to the SEA. In HB 2 there is $1 million which has been appropriated out of coal board money. The status sheet should show $4.2 million for the SEA general fund because the fund balance would revert to the SEA under current law. Because SB 83 has struck that language, the SB 83 line in the status sheet is showing a reduction to the SEA general fund balance. This will take away the negative impact to the general fund that SB 83 has in it.

Amendments 9, 10, and 11, help coordinate SB 83 with a couple of other bills. One is SB 390, which would have reduced the drivers' license fees. SB 83 amended those percentages to hold harmless the effect of general fund based on SB 390 passing. Since it has failed, those percentages would need to be changed. This is accomplished by amendments 9 and 10 which would leave a net impact of "0" to the general fund.

Amendment 11 adds coordinating language to HB 248 which would also amend those same percentages. The coordination language would say that if HB 248 passes, SB 83 would take precedence over that change.

The remaining amendments reflect changes in sections.

SENATOR JACOBSON stated she was concerned that the Department of Justice would come in again with this bill to lower the fees, the percentages would then have to be changed again. She questioned if there wasn't some way to leave the percentages alone and allow the amount not appropriated to flow to the general fund. She would like to see the percentages left out and state that anything not appropriated would go back to the general fund. She explained this was on page 50, line 30.

Roger Lloyd explained further that on page 51, line 3, this would amend the amount going to general fund upward.

SENATOR JACOBSON stated her concern was that if they came back in with the bill next session and the drivers' license costs go down, they would have to change this again.

SKIP COLVER explained there was one problem with this. While the drivers' license fee remains the same, they have extended the drivers' license fee for eight years. When a license is renewed the individual will be paying $32 instead of $16. There will be more revenue up front and less revenue further down the road when less people are renewing their license plates. This would mean their cash balance would diminish very quickly. They will need to carry funds forward through the eight years.

Motion: **SENATOR JACOBSON MOVED SB 83 BE AMENDED AS THE AMENDMENTS WERE PRESENTED.**

Vote: The motion **CARRIED UNANIMOUSLY** on oral vote.

Discussion: **REPRESENTATIVE BETTY LOU KASTEN** asked the committee to look at the amendments 12 and 13 which were put on by House Appropriations Committee. This re-earmarks 1% of the coal tax for the libraries. She would like to see that go back to the way it was when it came out of the Senate.

REPRESENTATIVE ROYAL JOHNSON stated that as the bill came out of the Senate it didn't de-earmark the library or the growth through agriculture or the local impact account. It combined them into one but it was still state special revenue. It was not de-earmarked to the general fund. This would be to include the state library within that state special revenue account.

REPRESENTATIVE KASTEN recommend taking the 1% which was allowed for the libraries and putting it back into the pool.

Roger Lloyd stated the bill itself could be amended to accomplish that same purpose. The bill, as it stands, does reflect those changes.

CHAIRMAN GROSFIELD explained the proposed amendment. There are now four entities which have their own fund. Libraries are earmarked. The suggestion would be that the libraries would be placed into the small fund so there would be five entities.

REPRESENTATIVE ROYAL JOHNSON asked if this would change the dollar amount going to the libraries?

REPRESENTATIVE KASTEN commented it had the potential of increasing. Right now if the money flowing through the coal trust is decreasing, the 1% is a stable amount. If it is put back in the fund, the whole amount would be allocated to those programs.

SENATOR JACOBSON stated the intent of the subcommittee was to put all these accounts into one pool and let the legislature decide, based on their testimony each session, how much would go for each of these programs. Evidently, the library came in and made a compelling case by saying that they would prefer to have a percentage because they did not want to compete with anyone else. That was not what the subcommittee, finance committee, nor the Senate planned to do. They have the potential of getting more money and there is a danger they could get less.

REPRESENTATIVE JOHNSON stated they could also get no money. If they were to get 1% of a number, that number would have to go to zero before they would be in a position of getting no money.

SENATOR JACOBSON commented the Montana Growth Through Agriculture entity may be one entity they would want to look at again. It appears they have been stretching some things.

SENATOR SWYSGOOD stated the intent of the subcommittee was to put it in one pot and let them come in and justify their expenditures. By putting them back at 1%, the same argument could be made by all the others who were taken out. They had agreed in the subcommittee and through this process that all the entities who received money out of this particular portion of the coal trust would be put in one state special revenue fund. They would have to justify why they needed the money. He didn't feel that the library should be any different from the other entities. They should all be treated equally.

REPRESENTATIVE KASTEN asked which way would be the best to proceed. Should they strike the amendments which were put on by the House or simply amend the bill.

Roger Lloyd stated it would be better to amend the bill. It would then be easier to see what was happening.

Motion: **REPRESENTATIVE KASTEN MOVED TO FURTHER AMEND SB 83 BY REMOVING THE DESIGNATION OF THE LIBRARY AT 1% AND PUTTING IT BACK INTO THE POOL.**

Discussion: **REPRESENTATIVE BEVERLY BARNHART** asked if anyone else in the pool had a percentage?

CHAIRMAN GROSFIELD referred to page 9, line 8, and stated there were impacts, county land planning, libraries (which had been struck), conservation districts, and Montana growth through agriculture. Libraries would be reinserted.

Roger Lloyd explained that on page 9, line 3, 21% would be increased by 1% so it would read 22%. Lines 8 through 11 would see the reinsertion of the basic library services for residents of all counties. Libraries would be added back into the pool. (F) would be struck.

REPRESENTATIVE BARNHART asked **REPRESENTATIVE JOHNSON** if he remembered the compelling testimony by the library. She thought perhaps the counties would not receive their money if it was not handled this way.

REPRESENTATIVE JOHNSON stated he did not believe that was the case. He didn't remember the compelling argument. By the amount of money involved now, he questioned if the distribution was already set up for this year.

SENATOR JACOBSON stated it would be in HB 2.

REPRESENTATIVE JOHNSON questioned if the libraries would get 1% of the 21%.

Roger Lloyd explained that the library has a state special revenue appropriation already in their budget which would be whatever the legislation has set in HB 2. That hasn't been changed. They have the state special revenue authority which they would use to spend out of this combined account. It is the next session where they would have to compete with the other four users for the legislature to set whatever level of appropriation they wished.

REPRESENTATIVE JACOBSON commented the way the governor's budget comes in and the LFA treats it, that would be their base amount and they would show the same spending level that they have for this biennium. The only difference would be if the legislature chose to change that and the legislature can do that now.

Roger Lloyd stated that was correct; although, he could visualize the executive budget reallocating that money in the way it felt would be best through present law adjustment to the base.

REPRESENTATIVE JACOBSON commented that the LFA would still show it as current level.

CHAIRMAN GROSFIELD questioned if the adoption of this amendment would require an amendment to HB 2? **Roger Lloyd** stated it would not.

Vote: The motion **CARRIED UNANIMOUSLY** on oral vote.

Motion: **REPRESENTATIVE BARNHART MOVED TO FURTHER AMEND SB 83 BY DE-EARMARKING THE BED TAX.**

Discussion: **SENATOR JACOBSON** asked for clarification. She stated her committee treated the bed tax the same way they treated the libraries. It was in a special revenue account which was targeted for the programs that are presently being funded with it. She questioned if this amendment would put it in the general fund or a special revenue account and treat it like the libraries?

REPRESENTATIVE BARNHART stated she would like to put it in the general fund. She did not like all the percentages which were used.

SENATOR SWYSGOOD stated they had been through this battle too many times before and it would be too late in the session to deal with it now.

Vote: The motion **FAILED** on oral vote with **REPRESENTATIVE BARNHART** voting "AYE".

Motion: **REPRESENTATIVE JOHNSON MOVED THE FREE CONFERENCE COMMITTEE REPORT ON SB 83.**

Vote: The motion **CARRIED UNANIMOUSLY** on oral vote.

ADJOURNMENT

Adjournment: The meeting adjourned at 7:00 P.M.

SENATOR LORENTS GROSFIELD, Chairman

JUDY J. KEINTZ, Secretary

LG/jjk

ROLL CALL

SENATE COMMITTEE Free Conference Committee SB 83 DATE 4/6/95

NAME	PRESENT	ABSENT	EXCUSED
Sen. Grosfield	✓		
Sen. Jacobson	✓		
Sen. Bengtson	✓		
Rep. R. Johnson	✓		
Rep Kasten	✓		
Rep. Barnhart	✓		

Attach to each day's minutes

Free Conference Committee
on SB 83
Report No. 1, April 7, 1995

Mr. President and Mr. Speaker:

We, your Free Conference Committee on SB 83, met April 6, 1995, and considered:

House Committee on Appropriations amendments to the third reading copy dated March 8, 1995; and

House Committee of the Whole amendments to the third reading copy dated March 11, 1995.

We recommend that SB 83 (reference copy - salmon) be amended as follows:

1. Title, line 8.
Following: "15-60-102,"
Insert: "15-60-210,"

2. Page 2, line 28.
Following: "PROGRAM"
Insert: "and the cost of administering this section"

3. Page 7, line 25.
Strike: "21%"
Insert: "22%"

4. Page 7, line 30.
Following: "planning,"
Insert: "provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking,"

5. Page 8, line 4.
Following: "ACT"
Strike: ";"
Insert: ". Any cash balance that is unspent at the end of each fiscal year must be deposited in the general fund."

6. Page 8.
Strike: lines 19 through 22 in their entirety.

7. Page 8, line 23.
Strike: "(G)"

ADOPT

REJECT

Insert: "(f)"

8. Page 9, line 3.
Strike: "21%"
Insert: "22%"

9. Page 9, line 8.
Following: "planning,"
Insert: "provision of basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking,"

10. Page 9, line 12.
Following: "ACT"
Strike: ";"
Insert: ". Any cash balance that is unspent at the end of each fiscal year must be deposited in the general fund."

11. Page 9.
Strike: lines 27 through 30 in their entirety.

12. Page 10, line 1.
Strike: "(G)"
Insert: "(f)"

13. Page 12, following line 5.
Insert: "**Section 9.** Section 15-60-210, MCA, is amended to read:
"**15-60-210. Disposition of fee ~~-- nursing facility account~~.** ~~(1)~~ All proceeds from the collection of utilization fees, including penalties and interest, must, in accordance with the provisions of 15-1-501(6), be deposited in the ~~nursing facility state special revenue account established in subsection (2)~~ general fund.
~~(2) There is a nursing facility account in the state special revenue fund. The purpose of the account is to provide a continuing source of revenue for nursing facility reimbursements as appropriated by the legislature.~~""
Renumber: subsequent sections

14. Page 16, line 22.
Strike: "18"
Insert: "19"

15. Page 18, line 18.
Strike: "19"
Insert: "20"

16. Page 18, line 30.

Strike: "19"
Insert: "20"

17. Page 50, line 30.
Strike: "35%"
Insert: "26.25%"

18. Page 51, line 3.
Strike: "36.25%"
Insert: "54.55%"

19. Page 63, line 9.
Following: "COORDINATION."
Insert: "(1)"

20. Page 63.
Following: line 11
Insert: "(2) If House Bill No. 248 is passed and approved and if it includes an amendment to 61-5-121 that changes the percentage of driver's license fee receipts to be distributed to the state traffic education account or to the general fund, then the amendments to 61-5-121 contained in House Bill No. 248 are void and are superseded by the amendments to 61-5-121 contained in [this act]."

21. Page 63, lines 16 and 18.
Strike: "11"
Insert: "12"

22. Page 63, line 19.
Strike: "18"
Insert: "19"
Insert: "19"
Insert: "20"

23. Page 63, line 20.
Strike: "18"
Insert: "19"

24. Page 63, line 21.
Strike: "19"
Insert: "20"

25. Page 63, line 23.

Strike: "80"
Insert: "81"

And that this Free Conference Committee report be adopted.

For the Senate:

Grosfield
Chair

Swysgood

Jacobson

Amd. Coord.

Sec. of Senate

For the House:

Royal Johnson
Chair

Kasten

Barnhart

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 1
DATE 4/6/95
BILL NO. SB83

Amendments to Senate Bill No. 83
Reference Reading Copy

Requested by Senator Grosfield
For the Conference Committee

Prepared by Roger Lloyd
April 5, 1995

1. Title, line 8.
Following: "15-60-102,"
Insert: "15-60-210,"

2. Page 2, line 28.
Following: "PROGRAM"
Insert: "and the cost of administering this section"

3. Page 8, line 4.
Following: "ACT"
Strike: ";"
Insert: ". Any cash balance that is unspent at the end of each fiscal year must be deposited in the general fund."

4. Page 9, line 12.
Following: "ACT"
Strike: ";"
Insert: ". Any cash balance that is unspent at the end of each fiscal year must be deposited in the general fund."

5. Page 12, following line 5.
Insert: "**Section 9.** Section 15-60-210, MCA, is amended to read:

"**15-60-210. Disposition of fee ~~-- nursing facility account.~~** ~~(1)~~ All proceeds from the collection of utilization fees, including penalties and interest, must, in accordance with the provisions of 15-1-501(6), be deposited in the ~~nursing facility state special revenue account established in subsection (2)~~ general fund.

~~(2) There is a nursing facility account in the state special revenue fund. The purpose of the account is to provide a continuing source of revenue for nursing facility reimbursements as appropriated by the legislature.~~""
Renumber: subsequent sections

6. Page 16, line 22.
Strike: "18"
Insert: "19"

7. Page 18, line 18.
Strike: "19"
Insert: "20"

8. Page 18, line 30.
Strike: "19"
Insert: "20"

9. Page 50, line 30.
Strike: "35%"
Insert: "26.25%"

10. Page 51, line 3.
Strike: "36.25%"
Insert: "54.55%"

11. Page 63, line 9.
Following: "COORDINATION."
Insert: "(a)"
Following: "activity" on line 11
Insert: "(b) If House Bill No. 248 is passed and approved and if it includes an amendment to 61-5-121 that changes the percentage of driver's license fees receipts to be distributed to the state traffic education account or to the general fund, then the amendments in House Bill No. 248 are void and are superseded by the amendments to 61-5-121 contained in [this act]."

12. Page 63, lines 16 and 17.
Strike: "11"
Insert: "12"

13. Page 63, line 19.
Strike: "18"
Insert: "19"
Insert: "19"
Insert: "20"

14. Page 63, line 20.
Strike: "18"
Insert: "19"

15. Page 63, line 21.
Strike: "19"
Insert: "20"

16. Page 63, line 23.
Strike: "80"
Insert: "81"

Amendments 1 & 5
Since the House Appropriations Committee amended Senate Bill 83 to de-earmark the utilization fee for bed days in nursing facilities, section 15-60-210 must also be amended. Greg Petesch had written an amendment for the House to do this, but it never got introduced.

Amendment 2
When the amendment re-instating the statutory appropriation for district court fees was written, it struck language authorizing that the funds could be used for costs of administering the program. This amendment re-inserts the language.

Amendment 4
The amendment adds language to statute (similar to that currently in law for the local impact account) so that the cash balance in the combined coal severance tax account reverts to the general fund. This amendment was written for the House, but never introduced.

Amendments 9, 10, & 11
Since Senate Bill 390 (an act reducing drivers license fees) has failed, the percentages of the fees allocated to the state traffic education account need to be lowered and the allocation to the general fund needs to be increased so the net effect to the general fund from de-earmarking justice's fine is zero. The amendments also add coordinating language for House Bill 248 (which also amends the percentages) so that Senate Bill 83 amendments take precedence.

{Office of Legislative Fiscal Analyst 444-2986}